X-6812

DIGEST OF STATE LAWS RELATING TO PRIVATE BANKS OR BANKERS.

The following is a digest of the laws of the several States having reference to the organization and operation of private banks or bankers, which was prepared in the office of the General Counsel to the Federal Reserve Board with the assistance of the Counsel for the various Federal reserve banks.

Only the provisions of State laws pertaining to the organization and operation of private banks or bankers and the nature and scope of the supervision of them exercised by the State banking authorities have been covered in the digest; and no attempt has been made to digest in detail any provisions pertaining to liquidation. The laws of some States require private banks or bankers to conduct their business in accordance with the provisions covering incorporated banks. In such cases, this general requirement has been digested, but no attempt has been made to digest the provisions covering incorporated banks.

In preparing this digest, it has been assumed that the terms "private bank" and "private banker" are generally understood to embrace all persons, firms, partnerships, associations or other organizations engaged in one or more of the generally recognized phases of the banking business without being incorporated. Where, however, the term "private bank" or "private banker" is defined in the State laws, such definition is summarized in the digest.

ALABAMA.

Private banks subject to same general provisions as incorporated banks and to certain additional specific provisions.

The laws of this State create a banking department which is "charged with the execution of all laws relating to *** individuals doing or carrying on a banking business in the State of Alabama." The laws also provide that "The word 'bank' as herein used means any person, firm, partnership or corporation doing or carrying on a banking business, * * *, unless used in such connection and so as to express a different meaning", indicating that so-called private bankers are subject to the same general provisions as are made applicable to incorporated banks. (Civil Code, Sec. 6275; Banking Laws, 1928, sec. 6275, p. 3). In addition, the laws also contain provisions specifically covering the organization, operation and liquidation of private bankers, and these provisions are set forth below.

Organization; notice of intention to commence business; publication of.

"No individual or individuals or partnership shall commence the carrying on of the banking business without first giving notice of intention to organize and carry on such business by publication at least once a week for four successive weeks in a newspaper to be designated by the superintendent of banks published in the city or town or county where such bank is proposed to be located. Such notice shall specify the name or names of the individual or individuals proposed to be interested in such bank, what interest each will have, the amount of the capital proposed to be used in the proposed banking business, the name under which and the place where the business will be carried on, and the bona fide cash value of the assets and property of each individual to be interested in the bank, over and above all indebtedness. Copy of such published notice * * * shall be made and filed with the superintendent of banks." (Civil Code, sec. 6349; Banking Laws, 1928, sec. 6349, p. 24.)

Investigation by superintendent of banks.

"The superintendent of banks shall investigate and ascertain whether the character and general fitness of the individuals named are such as to command the confidence of the community in which said bank is proposed to be located, and that there is public necessity for said bank, and sufficient business to support the same in said community, the same as is required preliminary to the incorporation of a bank under the provisions of this article." If, after such investigation, the superintendent is of the opinion that the facts do not warrant the establishment of such bank, "he shall issue under his hand and official seal, in duplicate, a refusal to permit the individuals proposed to be interested in the proposed bank from operating the bank, and shall **** transmit to the probate judge of the county in which the bank is proposed

to be located and do business, one of the duplicates of his refusal, which the probate judge shall file and record in his office, and the other duplicate of his refusal the superintendent shall file in his office." (Civil Code, sec. 6350; Banking Laws, 1928, sec. 6350, p. 24.)

Application for permit to commence business.

"Before any *** individual banker shall transact any business as a bank, such *** individual shall file with the superintendent request for a permit to commence business." (Civil Code, sec. 6351; Banking Laws, 1928, sec. 6351, p. 24.)

Written approval of superintendent of banks required.

"No *** individual or individuals shall transact any business as a bank in this State other than such as relates to the formation of such bank without the written approval of the superintendent of banks and without his written certificate stating that such *** individual banker has complied with all the requirements of law and is authorized to transact business within this State as a bank and that such business can be safely entrusted to it, which certificate shall be recorded in the office of the superintendent in a book to be kept by him for that purpose, and a certified copy thereof under the hand and official seal of the superintendent shall be filed and recorded in the office of the probate judge of the county wherein the *** individual is to have its, his or their principal place of business, at the expense of the bank". (Civil Code, sec. 6352; Banking Laws, 1928, sec. 6352, p. 25.)

Examination by superintendent as to payment of capital.

"The superintendent shall, before issuing his permit to any *** individual banker to commence business, examine or cause an examination to be made in order to ascertain whether the requisite capital of such bank has been paid in in cash. The superintendent shall not authorize such *** individual banker to commence business unless it appears to his satisfaction from such examination, or other evidence satisfactory to him, that the requisite capital has, in good faith, been subscribed, and paid in cash." (Civil Code, sec. 6353; Banking Laws, 1928, sec. 6353, p. 25.)

Transacting business without permit; penalty.

"Any person who shall hereafter transact any business as an officer or agent *** of an individual banker hereafter commencing business, before such *** individual banker is authorized to transact business as a bank by the permit of the superintendent of banks, shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than one hundred nor more than one thousand dollars." (Criminal Code, sec. 3400; Banking Laws, 1928, sec. 3400, p. 63.)

Individual may appeal from decision of superintendent refusing permit.

An individual may appeal to the State Banking Board and a court of competent jurisdiction from a decision refusing him the right to establish an individual bank. (Civil Code, sec. 6356; Banking Laws, 1928, sec. 6356, p. 26.)

Annual assessments for expenses of banking department.

Each private banker on the call of the superintendent of banks, is required to pay a certain amount into the treasury of the State, between the first day of January and the first day of April of each year, or at such other time as the superintendent may designate, to be used as an aid in defraying the expenses of the banking department. (Civil Code, sec. 6287; Banking Laws, 1928, sec. 6287, p. 6). Each bank failing to pay this assessment "shall forfeit to the State five ($5.00) dollars for each day after it is (in) default, ***". (Civil Code, sec. 6288; Banking Laws, 1928, sec. 6288, p. 7).

Examinations; number and nature of.

"The superintendent of banks shall either personally, or by competent examiner appointed by him, visit and examine *** every individual banker doing a banking business, in and under the laws of the State of Alabama, at least twice in each year. On every such examination, inquiry shall be made as to the condition and resources of the corporation (or the individual or individuals in case of individual bankers), the mode of conducting and managing the affairs of the bank, ***, the investment of the funds of the bank, the safety and prudence of the management of the bank, and whether the requirements of its charter and of law have been complied with in the administration of the affairs of the bank, and as to such other matters as the superintendent of banks may prescribe. In addition, the superintendent of banks shall in like manner examine or cause to be examined into the affairs of every *** individual banker doing a banking business whenever in the judgment of the superintendent the management and condition of the bank is such as to render an examination of its affairs necessary or expedient, or whenever in the opinion of the superintendent the interest of the public demands an examination." (Civil Code, sec. 6289; Banking Laws, 1928, sec. 6289, pp. 7 and 8).

Reserve requirements.

"No bank, firm, person or corporation doing a banking business shall reduce, or be allowed to reduce the cash of the bank on hand below fifteen per cent of demand deposits, provided that three-fifths of said fifteen per cent reserve may consist of the balance due by banks and bankers to said bank when payable on demand." (Civil Code, sec. 6337; Banking Laws, 1928, sec. 6337, p. 19).

Failure of private banker to pay over money on demand.

Any private banker who sells or disposes of property for another, and refuses for three days after demand made by the person entitled to make such demand or his agent or attorney, to pay the amount to which such person is entitled, must on conviction, be fined not more than one thousand dollars, and may also be imprisoned in the county jail, or sentenced to hard labor for the county for not more than six months. (Code of Alabama, 1923, sec. 3976.)

Impairment of capital; power and duty of superintendent.

"Whenever the superintendent of banks shall have reason to believe that the *** capital of any individual banker is reduced by impairment or otherwise below the amount of its paid-up capital stock, he shall require such *** individual banker to make good the deficit within thirty days after the date of the requirement by him, which requirement shall be in writing. The superintendent may examine or cause to be examined into the affairs of any such bank to ascertain the amount of such impairment or reduction of capital and whether the deficiency has been made good as required by him". (Civil Code, sec. 6297; Banking Laws, 1928, sec. 6297, p. 9).

Superintendent must request correction of unsafe practices.

"The superintendent of banks shall submit to the *** governing body of any individual banker, and request a correction of any matter in the conduct of the affairs of the bank which, in his opinion, is unsafe." (Civil Code, sec. 6298; Banking Laws, 1928, sec. 6298, p. 9).

Unsafe or unsound condition or other matters of default or misconduct; superintendent may take possession.

"Whenever it shall appear to the superintendent of banks that any *** individual banker has violated its charter or any law of the State, or is conducting business in any unauthorized manner, or if the capital of *** any individual banker is impaired and not made good under the requirement of the superintendent within the required time, or if any such *** individual banker shall refuse to submit its papers, books and concerns to the inspection of the superintendent or any examiner, or if any officer thereof shall refuse to be examined on oath touching the conduct of any such *** individual banker or if any such *** individual banker shall suspend payment of its obligations or if from any examination the superintendent shall have reason to conclude that such *** individual banker is in an unsound or unsafe condition to transact the business for which it was organized, or that it is unsafe for it to continue business, or if any such *** individual banker shall neglect or refuse to observe any order of the superintendent directing or requiring the doing of any particular thing required to be done by law, the superintendent may call a meeting of the banking board and submit to said board matters of default or misconduct in the affairs of the banks of which the bank shall have notice and upon which the bank may be heard in person or by counsel, and if said board or a majority of said board, so directs, the superintendent shall forthwith take possession of the property and business of such *** individual banker and retain such possession until such *** individual banker shall resume business or its affairs be finally liquidated, as herein provided". (Civil Code, sec. 6299; Banking Laws, 1928, sec. 6299, pp. 9 and 10).

Superintendent not to take charge of individual banker unless directed to do so by banking board.

"The superintendent of banks shall not take possession of the property and business of any bank under the provisions of this article unless *** directed so to do by the banking board. On taking possession of the property and business of any such *** individual banker, the superintendent shall give notice of such fact to all banks and other parties or corporations holding or in possession of any assets of such *** individual banker." (Civil Code, sec. 6303; Banking Laws, 1928, sec. 6303, p. 11).

When business may be resumed.

"After the superintendent has taken possession of *** (the) business of an individual banker, the superintendent may permit such *** individual banker to resume business upon such condition as may be approved by him including an observance of all the requirements of law, and making good all deficits in the previous observances of law." (Civil Code, sec. 6305; Banking Laws, 1928, sec. 6305, p. 11).

Liquidation of affairs by superintendent.

"Upon taking possession of any of the property and business of any *** individual banker, the superintendent may collect moneys due to such *** individual banker and do such other acts as are necessary to conserve its assets and business, and shall proceed to liquidate the affairs thereof as hereinafter provided. The superintendent shall collect all debts due and claims belonging to the bank." (Civil Code, sec. 6306; Banking Laws, 1928, sec. 6306, p. 11). The laws also contain detailed provisions relating to the powers and duties of, and the procedure to be followed by, the superintendent of banks in the actual liquidation of the affairs of an individual banker. (Civil Code, sec. 6304, 6307-6319 and 6325; Banking Laws, 1928, secs. 6304, 6307-6319 and 6325, pp. 11-14 and 16).

ARIZONA.

Private or partnership banks expressly prohibited.

The laws of this State provide that "The establishing or maintenance of private or partnership banks is hereby expressly prohibited; PROVIDED, that all such banks now in operation shall retire from business or incorporate under the provisions of this Chapter within a period of five years from and after the approval of this Chapter". (Banking Laws, 1922, sec. 30, p. 24; Senate Bill No. 26, First Special Session of the Fifth Legislature of Arizona, sec. 30).

ARKANSAS.

Private banks permitted, but subject to same provisions as incorporated banks.

The laws of this State, in defining the word "bank", recognize a private banking business but indicate that such business is subject generally to the same provisions as those which cover incorporated banks. This definition reads in part as follows:

"Wherever the word 'bank' appears in this (bank) act, it shall be deemed to apply alike to any incorporated bank, trust company, or savings bank, *** and also to any partnership or individual transacting a banking business." (Acts of 1913, Act 113, sec. 10, as amended by Acts of 1923, Act 627, sec. 17; Banking Law Pamphlet, 1929, sec. 20, p. 14).

The following provisions are specifically made applicable to private banks.

Organization; application to bank commissioner.

The laws provide that persons desiring to organize a corporation for the purpose of transacting a banking or trust business "may apply to the (bank) Commissioner to be incorporated and shall submit their proposed articles of agreement" which shall set out certain information. (Acts of 1913, Act 113, sec. 11; C. & M. Digest, sec. 675; Banking Law Pamphlet, 1929, sec. 12, p. 8). If an application to engage in the business of banking is made by a private bank, "it shall be in such form as the Commissioner shall prescribe, and he shall make the same inquiry as is required in cases of incorporation before issuing to such firm or individual his permit of any kind of a bank." (Acts of 1913, Act 113, sec. 14; C & M. Dig., sec. 678; Banking Law Pamphlet, 1929, sec. 15, p. 11).

With reference to the "same inquiry" which the bank commissioner institutes in the case of an incorporated bank, the laws provide that "the Commissioner shall ascertain, from the best source of information at his command, the character and general fitness of the persons named as stockholders (owners), and their standing in the community in which the proposed institution is to be located, and whether the requisite capital has been in good faith subscribed and paid." (Acts of 1913, Act 113, sec. 12; C. & M. Dig., sec. 676; Banking Law Pamphlet, 1929, sec. 13, p. 9).

Fee required for organization, increase of capital and amendment of charter.

"No corporation, firm or individual shall be allowed to do a banking business of any kind unless it, they, he, or she, shall pay to the Bank Commissioner a fee of one-fifth of one per cent on the authorized capital stock. Fees at the same rate shall be charged for

an increase of capital stock." For each amendment or supplement to the charter, except for an increase of capital stock, a fee of ten dollars shall be charged. (Acts of 1913, Act 113, sec. 16; C. & M. Dig., sec. 680; Banking Law Pamphlet, 1929, sec. 17, p. 11).

Title must show that institution is not incorporated.

Any individual or firm doing business as a private bank shall designate a name for such bank, which shall show that it is not incorporated. (Acts of 1913, Act 113, sec. 15; C. & M. Dig., sec. 679; Banking Law Pamphlet, 1929, sec. 16, p. 11).

Property must be held in name of bank.

All real and personal property owned by a private bank must be held in its name and not in the name of the owner or owners of the bank. (Acts of 1913, Act 113, sec. 15; C. & M. Dig., sec. 679; Banking Law Pamphlet, 1929, sec. 16, p. 11).

When creditor of owner may attach bank's assets.

All of the assets of a private bank are exempt from attachment or execution by any creditor of an owner until all of the liabilities of the bank have been paid in full. (Acts of 1913, Act 113, sec. 15; C. & M. Dig., sec. 679; Banking Law Pamphlet, 1929, sec. 16, p. 11).

Owner may not use bank's funds for private business; note of owner as asset.

"No private banker shall use any of the funds of his bank for private business, and the note of the owner or owners of any private bank shall not be considered or accepted as a part of its assets." (Acts of 1913, Act 113, sec. 15; C. & M. Dig., sec. 679; Banking Law Pamphlet, 1929, sec. 16, p. 11).

When owner's widow can be endowed of bank's property.

"In case of the death of an individual banker, his widow shall not be endowed of any of the property of the bank, except such as remains after the payment of all depositors and other creditors." (Acts of 1913, Act 113, sec. 15; C. & M. Dig., sec. 679; Banking Law Pamphlet, 1929, sec. 16, p. 11).

Acceptances and letters of credit; limit of liability.

"Any *** private bank, *** may accept for payment at a future date drafts drawn upon it by its customers and to issue letters of credit authorizing the holders thereof to draw drafts upon it or upon its correspondents at sight or on time not exceeding six months; provided, that no bank shall incur liabilities under this subdivision to an amount equal at any time in the aggregate to more than its paid-up and unimpaired capital stock and certified surplus fund." (Act of March 22, 1919, p. 251, sec. 4; C. & M. Dig., sec. 741; Banking Law Pamphlet, 1929, sec. 30, p. 21).

CALIFORNIA.

Banking business may only be transacted by corporations.

The laws of this State provide that the business of banking may only be transacted by corporations duly organized for that purpose. The provisions in this connection read as follows:

"The word 'bank' as used in this act shall be construed to mean any incorporated banking institution which shall have been incorporated to conduct the business of receiving money on deposit, ***, *** It shall be unlawful for any corporation, partnership, firm or individual to engage in or transact a banking business within this state except by means of a corporation duly organized for such purpose. ***" (California Bank Act, 1929, sec. 2, p. 3).

COLORADO.

Private banking business permitted, but made subject to same provisions as incorporated banks.

The laws of this State provide that where the business of banking is engaged in by persons or copartnerships such business is subject to the same requirements as are made applicable to incorporated banks. The laws in this connection read as follows:

"The word 'Bank,' as used in this Act, shall include every person, co-partnership and corporation, except National Banks, engaged in the business of banking in the State of Colorado". (Laws of 1913, sec. 1, p. 116; Compiled Laws of 1921, sec. 2653; Banking Laws, 1928, sec. 1 p. 3).

"When by the provisions hereof anything is required to be done by any incorporated bank or its board of directors, or any officer, director or employee thereof, or their right or power to do a specified act is denied, the same act shall be done, or not, as the case may be, by individuals or co-partners engaged in the banking business." (Laws of 1913, sec. 2, p. 116; Compiled Laws of 1921, sec. 2654; Banking Laws, 1928, sec. 2, p. 3).

In addition to the provisions applicable to incorporated banks, persons or co-partnerships are subject to the following specific provisions:

Word "State" may not be used as part of title.

"Individuals or co-partnerships engaged in banking shall not use the word 'State' as a part of the bank or firm name." (Laws of 1913, sec. 9, p. 118; Compiled Laws of 1921, sec. 2661; Banking Laws, 1928, sec. 9, p. 7).

Ownership of capital stock by copartners.

"Co-partners conducting a bank shall each own at least two per cent thereof (capital stock) in no wise pledged or incumbered." (Laws of 1919, sec. 1, p. 299, amending Laws of 1913, sec. 12, p. 119; Compiled Laws of 1921, sec. 2664; Banking Laws, 1928, sec. 12, p. 9).

Oath required of owner of unincorporated bank.

"Every owner of any portion of an unincorporated bank actually engaged in the management thereof, shall take and subscribe to an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of the bank; that he will not knowingly violate, nor willingly permit to be violated, any provision of the law; that he is the owner in good faith of at least that part of the capital stock of said bank or that portion of the capital employed therein" specified by the provision last above quoted. (Laws of 1913, sec. 14, p. 119; Compiled Laws of 1921, sec. 2666; Banking Laws, 1928, sec. 14, p. 9).

Loans to co-owners prohibited.

"No unincorporated bank shall loan to any person or co-partner owning an interest therein. No individual or co-partner owning an interest in an unincorporated bank shall become endorser for any person, firm or corporation borrowing money therefrom, nor shall any note or obligation of such individual or co-partner be considered an asset of such bank." (Laws of 1913, sec. 33, p. 124; Compiled Laws of 1921, sec. 2687; Banking Laws, 1928, sec. 37, p. 21).

CONNECTICUT.

Private banking business prohibited; exceptions.

The laws of this state provide that "No person, firm, corporation or unincorporated association of persons, other than a private banker who, on May 29, 1925, was engaged in business as a private banker, and, prior thereto, qualified as such by the filing of the bond or securities required by the general statutes, or a person, firm, corporation, or unincorporated association of persons succeeding in ownership to the business of a private banker qualified as above provided, and who shall, upon succeeding to such business, comply with the provisions of law relating to private bankers, shall engage in the business of a private banker, provided nothing herein contained shall prevent any firm, partnership or unincorporated association of persons carrying on the business of a private banker from changing or increasing the membership of such firm, partnership or unincorporated association of persons or from reorganizing into a new firm, partnership or unincorporated association of persons". (General Statutes of Connecticut, Revision of 1930, sec. 3958).

"No private banker shall use, as a part of his name or as a prefix or suffix thereto or as a designation of the business carried on by him, the word 'banker', 'bank', 'banking', 'trust' or 'savings' but he may do so if he qualifies it by the word 'private'". (General Statutes of Connecticut, Revision of 1930, sec. 3950).

Definition of term "private banker".

"The term 'private banker' shall mean any person, corporation, firm, partnership or unincorporated association of persons, engaged in whole or in part in the business of receiving deposits subject to check or for repayment upon the presentation of a passbook, certificate of deposit or other evidence of debt, or for repayment upon request of the depositor, or engaged in the business of receiving money for transmission, other than a bank, trust company or building and loan association organized under the laws of this State or of the United States or express companies having a contract or contracts with a railway or railways covering express transportation." (General Statutes of Connecticut, Revision of 1930, sec. 3949).

Bond must be filed with State Treasurer; purpose of.

Every private banker must deposit with the treasurer of the State a bond executed by the private banker and by a surety company or the owner or owners of real estate within the State, approved by the bank commissioner. This bond shall be conditioned upon the repayment of any money which may be deposited with the private banker and upon the faithful transmission of any money which may be delivered to such banker for transmission to another, "and upon the payment, in the event of the insolvency or bankruptcy of such private banker, of the full amount recoverable under the conditions of such bond to the assignee, receiver or trustee of such private banker for the benefit (1) of the persons making such deposits or delivering money to such private banker for transmission to another and (2) the satisfaction of the general debts and obligations of such private banker". (General Statutes of Connecticut, Revision of 1930, sec. 3951).

Amount of bond dependent upon population.

"The amount of the bond required of each private banker engaged in business in any city or town having a population of twenty thousand or less shall be twenty thousand dollars, and of each private banker engaged in business in any city or town having a population in excess of twenty thousand shall be forty thousand dollars." (General Statutes of Connecticut, Revision of 1930, sec. 3951).

Securities may be deposited in lieu of bonds.

"Any private banker may, at his option, deposit with the treasurer in lieu of such bond, in whole or in part, securities owned by him of a sufficient actual value to aggregate, with any bond so filed, the required amount of such bond, which securities shall be such as shall have been approved by the bank commissioner." (General Statutes of Connecticut, Revision of 1930, sec. 3951).

Release of bond and securities.

Any bond or securities deposited with the treasurer may be released and delivered to the private banker upon the substitution of another bond or securities aggregating the required amount and approved by the bank commissioner. Any bond or securities shall also be released and delivered to a private banker upon the discontinuance of his business and upon delivery by him to the treasurer of the state of a certificate issued by the bank commissioner that all depositors and creditors have been paid in full and all outstanding liabilities have been satisfied. (General Statutes of Connecticut, Revision of 1930, sec. 3951).

Securities and money paid under bond because of default constitute trust fund.

Any security deposited with the State treasurer, and any money which, in case of default, is paid under any bond filed by any private banker "shall constitute a trust fund (1) for the benefit of the depositors of such private banker and the persons who shall deliver money to such private banker for transmission to others, which depositors or persons shall be preferred as to such money and securities so deposited or recovered in proportion to the obligations of such private banker to them arising out of such deposits or receipt of money for transmission and (2) for the benefit of the general creditors of such private banker." (General Statutes of Connecticut, Revision of 1930, sec. 3951).

Real estate of person acting as surety on bond must be described and is subject to a lien.

Whenever the treasurer accepts as surety on any bond any person owning real estate "he shall require such real estate to be described in such bond, and such real estate shall thereupon be subject to a lien to the amount of the obligation of such bond, which lien shall take precedence over any subsequent incumbrance, except liens for taxes or municipal assessments." A certified copy of the bond must be filed and recorded in the office of the town clerk in each town where such real estate is located, and a recording fee therefor must be paid by the private banker. (General Statutes of Connecticut, Revision of 1930, sec. 3951).

Provisions not applicable to certain persons, firms, etc.

The provisions relating to the deposit of a bond with the State "shall not apply to any person, firm, partnership, or unincorporated association of persons engaged solely in the business of forwarding or transmitting money." (General Statutes of Connecticut, Revision of 1930, sec. 3951).

Statement of assets and liabilities must be filed with the bank commissioner.

Every private bank shall "annually, on the first day of November or oftener if required by the commissioner, file with the bank commissioner a statement, under oath, in such form as may be required by the commissioner, showing his assets and liabilities, and giving such other information as may be required by the commissioner. (General Statutes of Connecticut, Revision of 1930, sec. 3954).

Examinations; insolvency or possibility of loss to depositors; bank commissioner may suspend operations.

"The commissioner may cause an examination to be made of the affairs of any private banker at any time at the expense of such private banker, and, if after appraising all the assets of such private banker, including loans on real estate and any real estate owned by such banker, he shall find that such private banker is insolvent, or that the depositors or persons delivering money to him for transmission are liable to suffer any loss, he may deliver to such private banker a written notice to discontinue receiving money from depositors or money for transmission and to discontinue paying depositors or other creditors.*** The written order of the commissioner authorized hereby shall be in effect a temporary injunction restraining such private banker and his employees from receiving money from depositors, or for transmission, and from paying depositors or other creditors until the same shall be vacated by any order of the superior court or a judge thereof." (General Statutes of Connecticut, Revision of 1930, sec. 3955).

Procedure to restrain continuance in business or to obtain appointment of receiver; liquidation.

If the bank commissioner finds that the private banker is insolvent or that the depositors are liable to suffer a loss, he must then make an application to the superior court for the county in which such banker is located setting forth the facts and circumstances and praying for the appointment of a receiver or an injunction restraining such private banker from continuing in business. If it appears to the court, after a hearing on the application, that such private banker is insolvent or can not resume business with safety to the public, such court may issue an injunction restraining the private banker from further carrying on business, and, "if insolvent, from collecting

"or receiving any debts or from paying out, selling, assigning or transferring any of the assets, moneys, funds or lands belonging to him until the court shall otherwise order." The court at the time of ordering the injunction, or at any time during the continuance of such injunction, may appoint a receiver for the insolvent private banker. The receiver has the powers conferred by law upon receivers of insolvent banks and trust companies. The court may limit the time for filing claims against such receiver and the winding up of the business of the private banker, "the liquidation of his property and assets and the distribution of the avails thereof among the creditors of such private banker". (General Statutes of Connecticut, Revision of 1930, section 3955).

Distribution of assets.

The "avails" shall be applied as follows: (1) To the expenses of settling the affairs of the private banker; (2) to the payment of the deposits and the money entrusted to the banker for transmission; (3) to the payment of all other liabilities of the banker. The balance of such avails shall be paid to such banker. (General Statutes of Connecticut, Revision of 1930, sec. 3955).

Receiver required to file bond.

The receiver must file a bond in such form and in such amount as the court may direct before taking control of the assets of any private banker. (General Statutes of Connecticut, Revision of 1930, sec. 3955).

Additional provisions regarding power of bank commissioner and superior court to suspend business in order to preserve assets or protect depositors.

"The commissioner may issue a temporary order restraining any *** private banker *** from paying out any funds *** or receiving deposits, or may take possession of *** such private banker's business until such time as a hearing may be arranged before a judge of the superior court, who may, upon application of the commissioner, *** or private banker, whenever, in the opinion of such commissioner, *** or private banker, it may be necessary to preserve assets or protect depositors, make an order restraining any *** private banker from paying out the funds of such *** private banker, or any portion thereof, or from declaring or paying dividends on any deposits or capital stock for such time as such judge shall deem necessary. Such order shall be in writing directed to the *** private banker to be affected thereby, and a copy of the order attested and left by the commissioner *** with such private banker shall be sufficient notice thereof. Before issuing such restraining order, the judge shall cause reasonable notice to be given to the *** private banker to be affected thereby. *** notice to an agent of any private banker shall be notice to such private banker. Notice may be waived by any such *** private banker or agent. Before *** any private banker shall apply to any judge for such

"restraining order, notice shall be given in writing to the bank commissioner of intention to so apply at least ten days before such application shall be made. If, in the opinion of the bank commissioner, (or) private banker *** such order should be revoked or modified, any judge of the superior court may, on application of such commissioner, (or) private banker *** revoke or modify the original order, and notice of such revocation or modification shall be given to the *** private banker affected thereby in the same manner as in the case of the original order." (General Statutes of Connecticut, Revision of 1930, sec. 3870).

Annual fee must be paid bank commissioner.

Every private banker is required to pay annually to the bank commissioner a fee of fifty dollars. (General Statutes of Connecticut, Revision of 1930, sec. 3957).

Purchase of real estate without approval of bank commissioner prohibited.

"No private banker doing business in this state *** shall purchase any real estate without first obtaining the approval of the bank commissioner." (General Statutes of Connecticut, Revision of 1930, sec. 3952).

Reserve fund required.

"Each such private banker shall maintain a reserve fund of twelve per centum of the demand deposits and five per centum of the time deposits held by him." (General Statutes of Connecticut, Revision of 1930, section 3953).

What reserve fund shall consist of.

"Such reserve fund shall consist of gold and silver coin, the demand obligations of the United States or national bank currency or federal reserve notes and federal reserve bank notes and be held by such private banker in his place of business and of balances with reserve agents, subject to demand draft or bonds which are legal investments for savings banks of this state, provided each such reserve agent shall be a depository approved by the bank commissioner; and the bonds, held as a part of such reserve, shall, at no time, exceed at par value one-sixth of the total reserve fund." (General Statutes of Connecticut Revision of 1930, sec. 3953).

Dividends or new loans, discounts, etc., prohibited while reserve is impaired.

Whenever the reserve fund of any private banker falls below the requirements, such banker is prohibited from making any new loans, discounts or investments, or any dividend or distribution of profits

until the reserve fund is restored to the required amount. (General Statutes,of Connecticut, Revision of 1930, sec. 3953).

Duty of bank commissioner in case of impaired reserve fund.

"The bank commissioner shall notify any private banker whose reserve fund shall fall below said required amount, and, if such private banker shall fail for thirty days thereafter to make good such reserve fund, the bank commissioner may apply for the appointment of a receiver to wind up his business." (General Statutes of Connecticut, Revision of 1930, sec. 3953).

Definition of permanent capital.

"Any real estate, security, personal property or evidence of ownership of property acquired by any unincorporated private banker, with the capital of such banker and cash received on deposit in excess of the total liabilities of such banker, shall be construed and designated as permanent capital." (General Statutes of Connecticut, Revision of 1930, sec. 3960).

Investment of permanent capital.

"Each such banker may, subject to the restrictions provided for herein, invest his permanent capital and the deposits received in such real and personal property, as he may deem advisable, provided the security afforded depositors shall not be imperiled by any such investment." (General Statutes of Connecticut, Revision of 1930, sec. 3960).

Restriction upon lending permanent capital to certain corporations.

"No private banker shall lend, directly or indirectly, to any corporation of which he is the legal or equitable owner of more than twenty-five per centum of the issued capital stock, any part of his permanent capital or capital stock or the deposits received by him." (General Statutes of Connecticut, Revision of 1930, sec. 3961).

Location of property upon which loans are made.

All real property and mortgage loans held by any private banker on May 29, 1925, or acquired with capital or deposits, or to which title has been taken in connection with the business of the private banker, must be located in the State of Connecticut, or in certain counties of the States of Rhode Island, Massachusetts or New York. (General Statutes of Connecticut, Revision of 1930, sec. 3962).

Real estate loans prohibited if aggregate amount exceeds 80% of appraised value of property.

"No private banker shall make a loan, directly or indirectly,

"upon the security of real estate if the total amount of mortgages, liens and encumbrances upon such real estate, including the mortgage loan to be made by such private banker, shall, in the aggregate amount, exceed eighty per centum of the appraised value of such real estate." (General Statutes of Connecticut, Revision of 1930, sec. 3963).

Branch or new place of business prohibited, but location in same town may be changed.

"No private banker shall establish any branch or open any new place of business, provided nothing herein contained shall prevent the change of location of the place of business of any private banker within the town in which such business is located, but nothing herein contained shall permit the change of location of such business from one town to another." (General Statutes of Connecticut, Revision of 1930, sec. 3959).

Penalties for violations.

Any person violating any of the above provisions "or of any other statute concerning the regulation of private bankers or concerning persons engaged in the business of receiving money for forwarding or transmission, shall be fined not more than two thousand dollars or imprisoned not more than one year or both." (General Statutes of Connecticut, Revision of 1930, sec. 3967).

Private bankers may incorporate; conditions precedent.

"Any person, firm or unincorporated association of persons, engaged on May 29, 1925, in the business of private banker ***, may incorporate, for the purpose of conducting such business, in the manner provided by law for the organization of joint stock corporations, except as provided herein. The by-laws of any private banker incorporating *** shall be submitted to the bank commissioner for approval, and no by-laws shall be adopted unless the same shall have been approved by him. Any such person, firm or association intending to incorporate for the purpose of transacting such business shall serve notice upon the commissioner of his intention to incorporate, and shall furnish evidence to the commissioner that the capital stock of such corporation to the amount of at least twenty-five thousand dollars shall have beensubscribed for, with capital stock shall not be invested in securities deposited with the state treasurer in lieu of a bond to the state." (General Statutes of Connecticut, Revision of 1930, sec. 3964).

DELAWARE

Banking business must be conducted under corporate charter.

"It shall be unlawful to conduct a banking business or the business of a trust company within this State except under a corporate

"charter valid in this State authorizing the conduct of such business in this State." (Act approved March 31, 1921, Laws of 1921, sec. 2; Banking Laws, 1929, sec. 2, p. 15). "No bank or trust company not actively engaged in business in this State at the time of the adoption of this Act shall open a place of business in this State without having first secured from the State Bank Commissioner a certificate that it has complied with all the requirements of law and that it is authorized to conduct the business specified therein." (Act approved March 31, 1921, Laws of 1921, sec. 3; Banking Laws, 1929, sec. 3, p. 15).

Forming banking company without incorporation; penalty.

"It is unlawful for any persons to associate in forming a banking company without incorporation; and any persons who shall receive subscriptions to the capital stock of such company, or shall subscribe for shares therein, shall forfeit and pay five hundred dollars to anyone who will sue for the same; one-half thereof for the use of the State." (Rev. Code of Del., 1915, sec. 2102; Banking Laws, 1929, sec. 2102, p. 31.)

Unauthorized banking operations or advertising; penalties.

"If any persons, members, or agents, of such (unincorporated banking) association, shall issue any bills, or notes, in the nature of bank notes, payable to bearer or order, or loan money upon actual or accommodation notes, or receive money on deposit, every such person shall forfeit and pay five hundred dollars, to be recovered and applied" as provided in the provision last above quoted. (Rev. Code of Del., 1915, sec. 2103; Banking Laws, 1929, sec. 2103, p. 31). "Any person, firm, or association of individuals * * *, who shall in any manner represent or hold out him, her, themselves or itself, whether by public advertisement, placard, hand bill or otherwise, as engaged in the receipt of deposits of money as a savings fund, bank or trust company or any business substantially similar thereto within the boundaries of the State of Delaware, not being authorized under the laws of this State to engage in such business or any business substantially similar thereto, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding two hundred dollars or imprisoned for a term not exceeding one year, or both, at the discretion of the Court." (Rev. Code of Del., 1915, sec. 3507; Banking Laws, 1929, sec. 3507, p. 39.)

DISTRICT OF COLUMBIA.

No prohibition against private banking business, and, except for taxation provisions, no other provisions applicable.

The laws of the District of Columbia do not contain any provisions prohibiting the transaction of a banking business by a private bank; nor do such laws contain any provisions covering the operation or supervision of such a bank. The laws, however, do contain provisions

defining a private bank and subjecting it to "a tax of five hundred dollars per annum". These provisions are given below.

Rate of taxation; "private bank or banker" defined.

"Private banks or bankers not incorporated shall pay a tax of five hundred dollars per annum. Every person, firm, company, or association not incorporated having a place of business where credits are opened by the deposit or collection of moneys or currency subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bills of exchange or promissory notes are received for discount or for sale, shall be regarded as a private bank or banker." (Act of July 1, 1902, 32 Stats. 621, ch. 1352, sec. 6, par. 14; Code of the District of Columbia, Title 20, sec. 765, p. 255.)

When tax must be paid.

"The taxes for said private banks and bankers, and note brokers shall be paid to the collector of taxes of the District of Columbia, and shall date from the first day of July in each year and expire on the thirtieth day of June following. Said taxes shall date from the first day of the month in which the liability begins, and payment shall be made for a proportionate amount." (Act of July 1, 1902, 32 Stats. 622, ch. 1352, sec. 6, par. 17; Code of the District of Columbia, Title 20, sec. 768, p. 253).

FLORIDA.

Private banking business prohibited.

Under the terms of a statute of this State enacted in 1915, it is provided that, except for persons, firms or companies which were conducting a private banking business on or before June 4, 1915, "no person, firm or company shall be allowed to conduct a banking business in this State without being incorporated under the banking laws of this State." (Acts of 1915, ch. 6812, sec. 1; Banking Laws, 1930, Article 14, sec. 4202, p. 55).

Persons, firms or companies conducting a private banking business as of June 4, 1915, could have been permitted by the Comptroller of the State, up to November 1, 1915, to continue such business if they had a capital of $15,000; but if authority to continue in business had not been obtained prior to November 1, 1915, the laws required that a receiver be appointed for such private banks. For private banks which were authorized to continue in business, the laws provide that they "shall be governed and controlled by the Banking Laws of this State, in so far as the same may be applicable, as fully and completely as if incorporated as a banking company, and shall be subject to all the penalties of said laws, and to the supervision, control and direction of the Comptroller." (Acts of 1915, ch. 6812, secs., 2,3,4 and 5; Banking Laws, 1930, Article 14, secs. 4203,4205 and 4206, pp.55 and 56).

GEORGIA

No provisions covering operation except restrictions against using certain advertising or banking terms.

"No private person, firm, or voluntary association engaged in the business of banking in this State not subject to the supervision of the Superintendent of Banks, and no private corporation except a bank duly chartered and organized under the laws of this State or under the Acts of Congress" shall make use of any advertising importing a corporation or indicating that the business engaged in is that of regularly chartered bank. Private banks are also prohibited from using the words "bank", "banker", "banking company", "banking house", or any other similar words indicating that the business done is that of a bank, without also using therewith the words "plainly written or printed, so that the same may be readily read, 'Private Bank, Not Incorporated', and every person, firm, association, or private corporation other than a regularly chartered bank, advertising to receive, or receiving deposits, shall at the window or desk at which such deposits are received place, a conspicuous sign with letters not less than one inch in height, upon which shall be printed the words, 'Private Banker, Not Incorporated'." Private bankers engaged in business at the time of the passage of the act containing these provisions (August 16, 1919) are not required to change the names in use by them and "may continue to use, without further qualification or restriction, the word 'Banker' or 'Bankers', where the use of their names conveys unmistakably that they are not incorporated." (Banking Law Pamphlet, with amendments to August 26, 1925, Article 1, sec. 4, pp. 3 and 4.) A violation of these provisions constitutes a misdemeanor. (Banking Law Pamphlet, with amendments to August 26, 1925, Article 20, sec. 35, p. 95).

Private bank may be converted into a bank.

The laws of this State also contain provisions permitting a private bank to convert into a bank upon complying with the laws covering the incorporation of banks. (Banking Law Pamphlet, with amendments to August 26, 1925, Article 11, secs. 1 to 3 inclusive, pp. 47 and 48.)

IDAHO

Private banking prohibited; but certain private bankers may continue in business.

The laws of this State provide that "it shall be unlawful for any corporation, partnership, firm or individual to engage in or transact a banking or banking and trust business within this state except by means of a corporation duly organized for such purpose, except that any individual, co-partnership or unincorporated association actually transacting a banking or banking and trust business as herein defined within this state on the date this act becomes effective, may continue in such

"business at the places where they are then located, under and subject to the provisions of this act." (Banking Laws, 1925, sec. 2, p. 5; Idaho Banking Code, 1925, ch. 133, sec. 2.) The word "bank", as used in these laws, "shall be construed to include any individual, co-partnership, or unincorporated association engaged in the banking business as herein defined." (Banking Laws, 1925, sec. 2, p. 5; Idaho Banking Code, 1925, ch. 133, sec. 2).

Definition of banking business.

"The soliciting, receiving or accepting of money or its equivalent on deposit as a regular business shall be deemed to be doing a banking business, whether such deposit is made subject to check, or is evidenced by a certificate of deposit, a passbook, a note, a receipt, or other writing; Provided, that nothing herein shall apply to or include money or its equivalent left in escrow or left with the agent pending investment in real estate or securities for or on account of his principal. (Banking Laws, 1925, sec. 2, p. 5; Idaho Banking Code, 1925, ch. 133, sec. 2.)

Banking business must be authorized by law; penalty.

"It shall be unlawful for any individual, copartnership, association, firm or corporation to receive money upon deposit or transact any other form of banking business except as authorized by this act. Any person violating any provision of this section, either individually or as an interested party in any co-partnership, association, firm or corporation, shall be guilty of a misdemeanor and upon conviction thereof shall be fined in the sum of not less than $300 nor more than $1,000, or by imprisonment in the county jail not less than thirty days nor more than one year, or by both fine and imprisonment." (Banking Laws, 1925, sec. 102, p. 47; Idaho Banking Code, 1925, ch. 133, sec. 102).

Advertising banking business not authorized by law; penalty.

"Any person, firm, or corporation, other than a national bank, not authorized to do a banking or trust business under this act, that uses or advertises as part of his or its firm or corporate name the word 'bank', 'banker', 'trust company', 'savings bank', or any other word or words of similar import, is guilty of a felony. Provided, however, this section shall not apply to title or trust companies incorporated under Chapter 194 of the Idaho Compiled Statutes 1919, nor to any company which prior to the passage of this act has lawfully assumed and used as a part of its name the word 'trust' or 'trust company'". (Banking Laws, 1925, sec. 103, p. 47; Idaho Banking Code, 1925, ch. 133, sec. 103.)

ILLINOIS

Banking business forbidden to natural persons, firms or partnerships.

"After January 1, 1921 no natural person or natural persons, firm or partnership shall transact the business of banking or the business of receiving money upon deposit, or shall use the word 'Bank' or 'Banker' in connection with said business; provided, that nothing herein

contained shall be construed to prohibit banks incorporated under the laws of this State or of the United States from appointing natural persons as agents to receive deposits of savings in and through the public schools." (Act of June 4, 1929, sec. 15½; Laws of 1929, sec. 15½, p. 188, made effective by popular vote as of December 2, 1930.)

Penalty for violation.

"Any person or persons violating this section shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment in the county jail for not more than one (1) year, or by both such fine and imprisonment, and the Attorney General or State's attorney of the county in which any such violation occurs may restrain such violation by a bill in equity to be filed in the Circuit Court of such county." (Act of June 4, 1929, sec. 15½; Laws of 1929, sec. 15½, p. 188, made effective by popular vote as of December 2, 1930.)

(Note: -- Sec. 15½ of the Illinois Laws of 1929, as it appeared in the laws of 1919, p. 235, prohibited the transacting of the business of transmitting money to foreign countries and buying and selling foreign money or receiving money on deposit to be transmitted to foreign countries (express, steamship and telegraph companies excepted).

The Supreme Court of Illinois in the case of Wedesweiler vs. Brundage, 297 Ill. 228, 130 N.E. 520, (April 5, 1921) held that these restrictions rendered the section unconstitutional on the grounds that it embraced a subject not mentioned in the title of the act, that it granted a special privilege in violation of sec. 22 of Art. IV of the Illinois Constitution, that it deprived the Appellees of the right to continue the business in which they were engaged without due process of law, and that it deprived them of equal protection of the laws in violation of Sec. 2, Art. II of the State Constitution and of Sec. 1 of the 14th Amendment to the Federal Constitution. The court further held that, in the absence of a statute, the right of an individual to engage in the banking business in all or any of its departments is unrestricted, but that the business is of a public character and is properly subject to statutory regulations for the protection of the public; and, that an individual is not engaged in the banking business because he does some of the things which are frequently or usually done by banks, such as loaning money and taking bonds and mortgages therefor and in transmitting money to foreign countries or buying and selling foreign exchange. This case is cited for the purpose of showing that the scope of the present section appears to be somewhat limited.)

INDIANA

Private banks must be authorized to transact banking business.

"It shall be unlawful for any individual, (or) firm *** to

hereafter engage in a banking business after the enactment of this act (1915) without first receiving from the (State) charter board the approval of their application ***. When in the judgment of said charter board it is advisable to make a personal investigation as to the need and necessity of establishing (a) * * * private bank, * * * , then the board may appoint some person to make a thorough investigation, and said person shall make a written report of his findings and file same with the charter board; *** ". (Acts of 1915, sec. 3, p. 550; Banking Laws, 1929, sec. 3, p. 77.)

Penalty for violation of above provision.

"Any person violating the provision of this (above quoted) section either individually or as an interest (ed) party, shall be guilty of a misdemeanor, and upon conviction thereof", shall be subject to certain prescribed penalties. (Acts of 1915, sec. 3, p. 550; Banking Laws, 1929, sec. 3, p. 77).

Applicability of provisions of act of 1907.

The Act of 1907, provides "That every partnership, firm or individual transacting a banking business within this state, or using the word bank, banker, or banking in connection with his or its business, shall be subject to the provisions of this act." (Acts of 1907, sec. 1, p. 174; Banking Laws, 1929, sec. 1, p. 43.)

Capital required; investment of; segregation of

"It shall be unlawful for any partnership, firm or individual to transact a banking business in this state, or to advertise as a banker unless said partnership, firm or individual has at least ten thousand ($10,000) dollars of cash capital invested in well secured notes in state or municipal bonds, or in bank building, furniture or fixtures, and shall be set apart for the security of the creditors of said bank; * * *". (Acts of 1907, p. 174, sec. 2; Banking Laws, 1929, sec. 2, p. 43.)

Real estate investments; restrictions upon and conditions regarding.

" * * * not more than one-third of the capital * * * fixed in the detailed statement of such partnership, firm, or individual shall be invested in real estate: * * *". If any part is invested in real estate, the real estate must be conveyed to the private bank in its own name by a deed signed and acknowledged by the members of the bank and their wives. The deed must give a description of the real estate and its value, must convey a good fee simple title, shall be recorded in the recorder's office of the county where the land is located and "a copy thereof filed with the bank commissioner: Provided, That no part of the capital, surplus or undivided profits of said bank, except as aforesaid, may be invested in real estate except it be taken in settlement of a doubtful claim, or purchased at judicial sale on a judgment or a decree of foreclosure in favor of said bank; and when so taken, it must be by deed made to such; and the president and cashier of such bank are hereby empowered and authorized to execute good and sufficient deed or deeds therefor, in the name of such bank, upon proper order made therefor by the board of directors of such bank. All mortgages held by or to secure money loaned by the bank shall be satisfied of record upon the payment thereof, by a release or satisfaction of mortgage executed in the name of the bank by its president, vice president or cashier." (Acts of 1907, p. 174, sec. 2; Banking Laws, 1929, sec. 2, pp. 43 and 44.)

Increase or decrease of capital stock.

The capital stock of any private banker may be increased by an agreement in writing signed by the partners or owners holding two thirds of the capital stock and paying into the bank in money the amount of the increase. This amount and a certificate by the cashier or manager of the bank of its payment, shall, within five days thereafter, be filed with the bank commissioner. The capital stock may be decreased but at no time below $10,000, upon a written petition of the partners or owners

holding two-thirds of the capital stock to the bank commissioner. The bank commissioner, after an examination of the bank may approve or refuse the reduction. If approved, that fact must be indorsed upon the petition, and notice of such reduction must immediately be published for thirty days in some newspaper published in the town where the bank is located, or, if no newspaper is published in the town, then in one published at the county seat. (Acts of 1907, p. 174, sec. 2; Banking Laws, 1929, sec. 2, p. 44).

Statement required to be filed.

Every private banker is required to file with the bank commissioner a detailed sworn statement of:

First. The name of the bank.

Second. A copy of the articles of copartnership or agreement under which the business is being, or is to be conducted, which shall be executed and acknowledged by all the parties interested in the bank, and at least one of whom shall be a resident of the State of Indiana. If a bank business is being or is to be transacted or carried on by an individual, such individual must be a resident of the State of Indiana, and the statement must so show.

Third. The county and city or town in which the bank is to be located, and the business carried on.

Fourth. The amount of the capital paid into the business and to be kept and maintained at all times in the business.

Fifth. That the aggregate responsibility and net worth of the individual members of such firm, partnership or individual is equal to an amount at least double the amount of the capital paid into the bank.

Sixth. The names of the officers who are to manage the business. (Acts of 1907, p. 174, sec. 3; Banking Laws, 1929, sec. 3, p. 44).

Certificates of stock must be issued to individuals forming bank and deemed capital stock.

Each private bank shall issue certificates of stock to the individual or individuals forming the bank "in an amount equal to the capital of said bank, which certificates of stock shall be deemed and considered the capital stock of such bank, * * * ". (Acts of 1907, p. 174, sec. 4; Banking Laws, 1929, sec. 4, p. 45.)

Certificate from bank commissioner to transact banking business; when issued; fee required.

After the filing of the statement referred to above and the "payment to the bank commissioner (of) a fee of one-tenth of 1 per cent,

of such capital stock; and the filing with the bank commissioner, (of) the oath of some member of the partnership, firm or individual, that the capital has been paid in as provided for and in compliance * * * (with) this act, then the bank commissioner shall, without unnecessary delay, issue to such partnership, firm or individual, a certificate authorizing such partnership, firm or individual to transact a banking business." (Acts of 1907, p. 174; sec. 5; Banking Laws, 1929, sec. 5, p. 45.)

List of owners must be posted and changes must be reported to bank commissioner.

A list of the owners of any private bank, and a statement to the effect that the institution is a private bank, must be posted in the room of every such bank. Any subsequent changes in the owners must be shown on the list and a report of all such changes must be made to the bank commissioner. (Acts of 1907, p. 174, sec. 6; Banking Laws, 1929, sec. 6, p. 45.)

Report showing resources and liabilities must be made to bank commissioner; number required and contents of.

Every private banker "shall make to the bank commissioner two reports during each and every year, according to the form which may be prescribed by him, verified by the oath or affirmation of the president, cashier or other managing agent of such bank, which report shall exhibit in detail the resources and liabilities of the bank at the close of business on any past day to be by him specified; * * * ". These reports must be made within five days after they have been called for by the bank commissioner and a verified copy must be published in a newspaper. (Acts of 1907, p. 174, sec. 7; Banking Laws, 1929, sec. 7, p. 46.)

Commissioner may call for special reports.

The commissioner is empowered to call for special reports "whenever, in his judgment, the same shall be necessary, in order to arrive at a full and complete knowledge of its (the private bank's) condition". (Acts of 1907, p. 174, sec. 7; Banking Laws, 1929, sec. 7, p. 46.)

Capital stock, surplus and undivided profits must be given as items.

Each private bank "in making any statement of the liabilities and assets of said bank, shall give the amount of its capital stock, its surplus and undivided profits as items thereof." (Acts of 1907, p. 174, sec. 4; Banking Laws, 1927, sec. 4, p. 45). "In no reports filed * * * shall real or personal property of an individual or individuals owning said bank, except the title is in the bank, be permitted as an asset." (Acts of 1907, p. 174, sec. 7; Banking Laws, 1929, sec. 7, p. 46.)

Penalty for failure to transmit or publish reports of condition.

Any private bank failing to make and publish any report of condition within five days after a request is made therefor is subject to a penalty of not less than one hundred dollars nor more than five hundred dollars. (Acts of 1907, p. 174, sec. 7; Banking Laws, 1929, sec. 7, p. 46).

Additional penalties prescribed for violations.

"Any person, firm or copartnership violating any of the provisions of this (1907) act shall be fined in any sum not exceeding one thousand dollars, to which may be added for the second offense imprisonment for any term not exceeding two years." (Acts of 1907, p. 174, sec. 9; Banking Laws, 1929, sec. 9, p. 46.)

Property held in trust.

If property is held in trust by a private banker, complete information regarding the trust must be set forth in an instrument which must be recorded in the recorder's office of the county in which the private bank is located and the instrument together with a certificate showing that it has been recorded must be filed with the bank commissioner. If the instrument is not recorded and filed, the property held in trust "shall be considered a part of the assets" of the private bank in case the affairs of the bank are wound up and the "remaining assets are not sufficient to pay in full the bona fide claims of all depositors." (Acts of 1907, p. 174, sec. 10; Banking Laws, 1929, sec. 10, p. 47)

Depositors have lien on assets.

The depositors in any private bank "shall have a first lien on the assets of such bank in case it is wound up, to the amount of their several deposits. And for any balance remainingunpaid, such depositors shall share in the general assets of the owner or owners, alike, with general creditors." (Acts of 1907, p. 174, sec. 11; Banking Laws, 1929, sec. 11. p. 47)

Private banks may sue and be sued; service of process; effect of judgments.

Any private banker "shall have the right to sue, and be sued, under the name under which such bank is authorized to transact its business. Service of summons or other process of court upon the officer or agent in charge of the business of such bank shall be good and sufficient service to give the court jurisdiction, and any judgment obtained against such bank shall be valid and binding against all the persons interested therein." (Acts of 1907, p. 174, sec. 12; Banking Laws, 1929, sec. 12, p. 47.)

Loans to officers restricted.

No private banker nor any of its officers "shall loan any of the funds of said bank in any amount exceeding thirty (30) per cent of the capital stock of said bank to any officer or officers thereof". (Acts of 1907, p. 174, sec. 13; Banking Laws, 1929, sec. 13, p. 48.)

Branch offices prohibited.

It is unlawful for any private banker "to open, or establish a branch bank or branch office: Provided, That the provisions of this section shall not apply to branch banks or branch offices for which charters have heretofore been granted." (Acts of 1921, p. 367, sec. 1; Banking Laws, 1929, p. 139.)

Trust powers may be executed.

Private banks may "accept and execute trusts of any and every description which may be committed or transferred to them, under the same rules and regulations as now govern like powers in loan and trust companies." (Acts of 1915, p. 310; Banking Laws, 1929, p. 81.)

Examinations; number and character of.

The affairs of every private bank shall be examined by one of the examiners appointed by the bank commissioner "as often as shall be deemed necessary", and a thorough examination into all the affairs of the bank is required. The examiner may examine under oath any of the bank's officers and agents, has the power to administer oaths to such officers and agents, and must make a detailed report of the condition of the bank to the bank commissioner. Each bank is charged a fee for such examinations according to the amount of its assets. (Acts of 1911, p. 30, sec. 2, as amended by Acts of 1921, p. 816 and by Acts of 1929, p. 495; Banking Laws, 1929, sec. 2, pp. 83-85)

Insolvent or failing condition; receiver may be appointed; duties of examiner and bank commissioner.

If a private bank is in an insolvent or failing condition, or if the assets are being wasted or improperly used, at the time the State bank examiner makes an examination, the examiner is required immediately to notify the bank commissioner. If the commissioner then deems it "necessary and expedient" he may direct the examiner or some other person to take charge and control of the private bank; and the commissioner shall, if he finds it to be to the best interests of the depositors and creditors of the bank, make application to the circuit or superior court of the county where the bank is situated for the appointment of a receiver for it. Notice of such application shall be given to the stockholders and depositors of the bank by publication as

directed by the court. If any private bank becomes in a failing or insolvent condition or fails or suspends between periods of examination, it shall be the duty of its officers immediately to notify the commissioner of such condition, failure or suspension, and the commissioner shall thereupon appoint some proper person to take charge of its assets, pending application for and the appointment of a receiver. Any of the officers failing to so report the suspension or failure of his bank shall be deemed guilty of a misdemeanor and on conviction may be fined not less than one hundred dollars nor more than five hundred dollars. The person appointed to take charge of the assets of any private bank shall receive reasonable compensation to be recommended by the bank commissioner and allowed him by the court having jurisdiction over the receiver, and immediately paid out of the assets before any distribution thereof is made. (Acts of 1911, p. 30, sec. 2, as amended by Acts of 1921, p. 816, and by Acts of 1929, p. 495; Banking Laws, 1929, sec. 2, pp. 83-85).

Failure of bank commissioner to discharge duties with reference to failing or insolvent private banks.

If the bank commissioner fails, neglects or refuses for fifteen days to discharge any duty imposed upon him with reference to failing or insolvent private banks, the depositors and creditors representing 25 per cent of the total deposits and obligations, except stock liability, have the right to petition the Attorney General who shall thereupon perform the duties of the bank commissioner in the particular case and apply for a receiver. (Acts of 1911, p. 30, sec. 2, as amended by Acts of 1921, p. 816, and by Acts of 1929, p. 495; Banking Laws, 1929, sec. 2, p. 85.)

Voluntary liquidation; commissioner may petition for receiver.

When a private bank has been in voluntary liquidation for eighteen or more months, the bank commissioner may petition the court for the appointment of a receiver if he considers that the affairs are not being administered to the best interests of the depositors and stockholders. Upon the appointment of the receiver, he "shall take charge and proceed to administer and terminate the affairs of the institution." (Acts of 1915, p. 546, sec. 1; Banking Laws, 1929, p. 82).

Failure to pay examination fee also cause for appointment of receiver.

A failure to pay any examination fee is also cause for the appointment of a receiver of a private bank. (Acts of 1911, p. 30, sec. 2, as amended by Acts of 1921, p. 816, and Acts of 1929, p. 495; Banking Laws, 1929, sec. 2, p. 85)

Owners may stay or abate appointment of receiver.

Upon the filing of a bond before the court which appointed a

receiver for a private bank, or before which the commissioner's application for the appointment of a receiver is pending, the owners of a private bank may abate or stay the appointment of a receiver. (Acts of 1907, p. 174, sec. 14; Banking Laws, 1929, sec. 14, p. 48.)

Voluntary liquidation.

The laws of this state contain provisions outlining the procedure and the conditions under which a private bank may go into voluntary liquidation. (Acts of 1907, p. 174, sec. 15; Banking Laws, 1929, sec. 15, p. 48.)

Reports and examination of private banks in voluntary liquidation.

Private banks in voluntary liquidation are subject to the same examinations and must, at the discretion of the bank commissioner, make the same reports as solvent private bankers. (Acts of 1911, p. 30, sec. 2, as amended by Acts of 1921, p. 816, and Acts of 1929, p. 495; Banking Laws, 1929, sec. 2, p. 85.)

Taxation of private banks.

There are also provisions covering the taxation of membership shares or certificates of stock of private banks. (Acts of 1919, p. 198; Banking Laws, 1929, pp. 101-108.)

IOWA.

No provisions covering operation except restrictions on the use of certain advertising or banking terms.

The laws of this State provide that "It shall be unlawful for any individual, partnership, or unincorporated association * * * not subject to supervision or examination of the banking department" to make use of the words "bank", "banking", "banker" or any derivative of the word "banking", or to make use of any sign or advertising indicating that the place of business or the business carried on is that of a bank. (Banking Laws, 1929, ch. 412, sec. 9151.) It is also provided that a violation of these provisions constitutes a misdemeanor (Banking Laws, 1929, ch. 412, sec. 9152); but that neither the penalties prescribed for the commission of this misdemeanor nor the above restriction on the use of certain advertising or banking terms "shall be construed as affecting or in any wise interfering with any private bank or private banker that may be engaged in lawful business previous to April 16, 1919." (Banking Laws, 1929, ch. 412, sec. 9153). An additional penalty is prescribed in case "any * * * private banker, or person, not incorporated under the provisions" of law covering savings banks," or any officer, agent, servant, or employee thereof" advertises or exhibits any sign as a savings bank. (Banking Laws, 1929, ch. 413, sec. 9200). The laws also require corporations organized under the general incorporation laws to transact a banking business to have the word "State" as a part of their titles, but these laws specifically deny the right to use this word as a part of its title to any "partnership, individual, or unincorporated association engaged in buying or selling exchange, receiving deposits, discounting notes and bills, or other banking business." (Banking Laws, 1929, ch. 414, secs. 9202 and 9203.)

KANSAS

Corporate charter required to engage in banking business.

"From and after the passage and taking effect of this act, it shall be unlawful for an individual, firm or association to engage in the banking business in the State of Kansas without first making application to and receiving a corporate charter therefor from the State charter board, and procuring a certificate to transact such business from the bank commissioner, as provided by law: Provided, That this act shall not apply to any individual, firm or association now engaged in the transaction of banking business in the State of Kansas as a private bank." (Laws of 1929, ch. 90, sec. 1; Banking Laws, 1929, sec. 95, p. 29). Private bankers engaged in business at the time of the enactment of the above provision of law "shall be amenable to all the provisions" of the so-called bank act. (Laws of 1897, ch. 47, sec. 36, as amended by Laws of 1907, ch. 64, sec. 1; Revised Statutes of Kansas, 1923, sec. 9-138; Banking Laws, 1929, sec. 36, p. 14.)

KENTUCKY

Private banking business expressly prohibited.

The laws of this State provide "That it shall be unlawful for any person or persons, either as individuals or co-partners, to engage in or conduct the business of private banking in this Commonwealth." (Acts of 1906, Ch. 44, p. 278, sec. 1; Carroll's Ky. Stats., 1930, sec. 602a-1).

Penalty for transacting private banking business.

"Any person or persons who shall engage in such business after this law shall become effective shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined not less than twenty nor more than fifty dollars for each day he or they shall be engaged in said business; after April 15, 1906, to be recovered under indictment in the circuit court of the country where the offense shall be committed." (Acts of 1906, ch. 44, p. 278, sec. 2; Carroll's Ky. Stats., 1930, sec. 602a-2).

Private banking provisions repealed; incorporation required.

"Sections 599, 600, 601 and 602, Kentucky Statutes, relating to private banking are hereby repealed, and persons hereafter conducting or engaging in the banking business in this Commonwealth are required to become incorporated as now provided by law." (Acts of 1906, ch. 44, p. 278, sec. 3; Carroll's Ky. Stats., 1930, sec. 602a-3).

LOUISIANA.

Private banking of doubtful legality.

Section 275 of the Revised Statutes of Louisiana (Act 166 of 1855) provides that -

> "Any person or association of persons, or corporation formed in compliance with the following provisions, may transact the business of banking in this state, and establish offices of discount, deposits, and circulation for that purpose, upon the terms and conditions, and subject to all the liabilities and penalties herein described."

Section 1 of Act 179 of 1902, as amended by Act 140 of 1906, (Banking Law Pamphlet, 1928, sec. 1, p. 4) provides -

> "*** that the business of banking shall be carried on only by such incorporated associations as shall have been organized under the laws of this state, and of the United States, by individual citizens of the state and by firms domiciled in the state where active members shall be citizens of this state, provided that no private banker or other person or persons not incorporated under this act shall be permitted to use the title Bank, Banking Association or Savings Bank in connection with its name."

Section 1 of Act 137 of 1918 (Banking Law Pamphlet, 1928, sec. 1, p. 105), provides in part that -

> "***No person, firm, association, company or corporation, either domestic or foreign, excepting only banks organized under the laws of the United States, not subject to the supervision of the Examiner of State banks, and not required by the laws of the State of Louisiana to report to him, and which has not received from the Examiner of State banks a certificate of authority to do a banking business, *** shall engage in the business of banking, or the business of receiving money on deposit, *** or solicit or receive deposits or transact business in the way or manner of a bank, savings bank or trust company ***"

Section 4 of this Act (Banking Law Pamphlet, 1928, sec. 4, p. 108), also provides that "all laws or parts of laws in conflict herewith be, and the same are hereby repealed."

The provisions of Section 275 of the Revised Statutes and Section 1 of Act 179 of 1902, as amended by Act 140 of 1906, above quoted authorized private bankers to carry on the "business of banking"; but whether private banking can now be transacted lawfully is a doubtful question in view of the fact that the laws do not appear to contain any provisions providing for the supervision of, or the issuance of a certificate of authority to do a banking business to, private bankers by the "Examiner of State banks", which is required by the above quoted provision of Section 1 of Act 137 of 1918, as a condition precedent to the transaction of a banking business by any person or corporation. Furthermore, the Examiner of State banks advises that he will not issue a certificate of authority to a private banker to engage in the banking business. Additional provisions of Act 137 of 1918 affecting the private banking situation are set forth below.

Prohibition against advertising or transacting business as bank, savings bank or trust company.

No person, firm, association, company or corporation, except banks organized under the laws of the United States, not authorized to do business by the State Bank Examiner or reporting to or under his supervision, can "advertise that he or it is accepting money, savings and issuing notes or certificates of deposit or investment therefor * * * or transact business in such a way or manner as to lead the public to believe that its business is that of a bank, savings bank, or trust company, * * * , or use the word, 'Bank', 'Banker', 'Banking', 'Savings Bank', 'Savings', 'Trust', 'Trustee', 'Trust Company', * * * or any other word or words of similar import as part of its name or title, " or make use of any sign or other advertising indicating that the place of business or the business carried on is in any way that of a bank, savings bank, or trust company. (Act 137 of 1918, sec. 1; Banking Law Pamphlet, 1928, sec. 1. pp. 105 and 106.)

Penalty for violation of above provisions; procedure to restrain violation.

The laws prescribe that a penalty of $100 a day must be paid to the State for each day that a violation of any of the above provisions continues. Upon an action brought by the Attorney General the District Court may issue an injunction restraining the use of words or from further transacting business in violation of the above provisions, and may make such other order as equity and justice may require. (Act 137 of 1918, sec. 1; Banking Law Pamphlet, 1928, sec. 1, pp. 106 and 107.)

Examiner must examine persons or firms suspected of violating above provisions; fees.

Whenever it comes to the notice of the State Bank Examiner that any person, firm, or corporation, is violating the above provisions or is conducting the business of banking, it is his duty to make an immediate examination of the affairs of any such person, firm, or corporation. For the purpose of making such examination, the examiner is given free access to all the books, papers and accounts and has power to administer oaths to any officer, agent, employee, etc., of such person, firm, or corporation, and to any other person whose testimony may be required. The examiner is authorized in his discretion, to assess the same fee for such examination as is assessed for the examination of incorporated banks and trust companies. (Act 137 of 1918, sec. 2; Banking Law Pamphlet, 1928, sec. 2. pp. 107 and 108.)

Refusal to permit examination or answer inquiries.

A refusal to exhibit or turn over any books, accounts and papers for examination or to answer any inquiries of the examiner, constitutes a misdemeanor which, upon conviction, is punishable by a fine of not less than $100 nor more than $500. (Act 137 of 1918, sec. 2; Banking Law Pamphlet, 1928, sec. 2, p. 107.)

Examiner to report violations to Attorney General.

Where the State Bank Examiner has duly ascertained that any person, firm, or corporation is engaging in the business of banking or otherwise violating the provisions above referred to, it is his duty to report such violation or violations to the Attorney General, "who shall institute the necessary proceedings to enforce the penalties" above provided for. (Act 137 of 1918, sec. 3; Banking Law Pamphlet, 1928, sec. 3, p. 108.)

MAINE

Private banking prohibited; some exceptions.

General rule:

> " No person, copartnership, association, or corporation shall do a banking business unless duly authorized under the laws of this state or the United States, except as provided by section four. The soliciting, receiving, or accepting of money or its equivalent on deposit as a regular business by any person, copartnership, association, or corporation, or a corporation intended to derive profit from the loan of money except as a reasonable incident to the transaction of other corporate business or when necessary to prevent corporate funds from being unproductive, shall be deemed to be doing a banking business, whether such deposit is made subject to check or is evidenced by a certificate of deposit, a pass-book, a note, a receipt, or other writing; provided that nothing herein shall apply to or include money left with an agent, pending investment in real estate or securities for or on account of his principal.
>
> Whoever violates this section, either individually or as an interested party in any copartnership, association, or corporation, shall be punished by a fine of not less than three hundred dollars nor more than one thousand dollars, or by imprisonment for not less than sixty days nor more than eleven months, or by both such fine and imprisonment." (R.S. of 1930, ch. 57, sec. 3.)

Exceptions:

(a) Corporations which desire to encourage thrift among their employees may secure right to receive from such employees deposits subject to interest at a specified rate, upon application to the bank commissioner and compliance with certain conditions. (R.S. of 1930, ch. 57, sec. 4.)

(b) Apparently a foreign person or association may carry on the business of accumulating and loaning or investing the savings of its members or of other persons in the manner of loan or building associations upon compliance with certain conditions.

"The bank commissioner may authorize any such association or corporation duly established under the laws of another state to carry on such business in this state, but said association or corporation shall not transact such business in this state unless it shall first deposit with the treasurer of state, the sum of twenty-five thousand dollars and thereafter a sum equal to fifteen per cent of the deposits made in such association or corporation by citizens of the state, the amount of percentage of deposits so required to be determined from time to time by the bank commissioner; or in lieu thereof the whole or any part of said sum may consist of any of the securities in which savings banks may invest, as regulated in section twenty-seven at their par value, and the said deposit shall be held in trust by said treasurer for the protection and indemnity of the residents of the state with whom such associations or corporations respectively have done or may transact business. Said moneys or property shall be paid out or disposed of only on the order of some court of competent jurisdiction, made on due notice to the attorney-general of the state, and upon such notice to the creditors and shareholders of such association or corporation as the court shall prescribe. For the purpose of ascertaining the business and financial condition of any such association or corporation doing or desiring to do such business, the bank commissioner may make examinations of such associations or corporations, at such times and at such places as he may desire, the expense of such examinations being paid by the association or corporation examined, and may also require returns to be made in such form and at such times as he may elect. Whenever, upon examination or otherwise, it is the opinion of the bank commissioner that any such association or corporation is transacting business in such manner as to be hazardous to the public, or its condition is such as to render further proceedings by it hazardous to the public, said bank commissioner shall revoke or suspend the authority given to said association or corporation; but this section shall not prevent such association, corporation, or institution incorporated under the laws of another state, from loaning money upon mortgages of real estate located within the state." (R.S. of 1930, ch. 57, sec. 122.)

Prohibition of use of words "bank," "savings," "trust" and related words.

"No person or partnership and no association or corporation unless duly authorized under the laws of this state or of the United States to conduct the business of a bank or trust company shall use as a part of the name or title under which such business is conducted, or as designating such business, the word or words 'bank,' 'banker,' 'trust,' 'trust company,' 'banking,' or 'trust and banking company,' or the plural of any such word or words or any abbreviation thereof in or in con-

nection with any other business than that of a bank or trust company duly authorized as aforesaid. Provided, however, that this restriction shall not apply to any such person, partnership, association, or corporation, conducting business under such name or style prior to the twenty-third day of April, nineteen hundred five. No person, partnership, association, or corporation, bank or trust company, except a mutual savings bank organized under the laws of this state, shall use as a part of its name or title the word or words 'saving,' 'savings,' or 'savings bank.' Provided, however, that this restriction shall not apply to any business being conducted under such name or style prior to the twenty-third day of April, nineteen hundred five, nor to any bank or trust company using such word or words prior to the first day of January, nineteen hundred twenty-nine.

Any person, partnership, association, or corporation violating any of the provisions of this section may be enjoined therefrom by any court having general equity jurisdiction, on application of the bank commissioner or any person, corporation, or association injured or affected by such use; and any such court may further enjoin any attempt on the part of any person, firm, or corporation to mislead or give a false impression to the public that such person, firm or corporation is authorized under the laws of this state to conduct the business of a trust company. Any person or persons violating any of the provisions of this section, either individually, as members of any association or copartnership, or as interested in any such corporation, shall be punished by a fine of not more than one thousand dollars, or by imprisonment for not less than sixty days nor more than eleven months, or by both such fine and imprisonment." (R.S. of 1930, ch. 57, sec. 5.)

MARYLAND.

No provisions covering operation except restrictions against using certain advertising.

Except for the following provisions, which appear to be applicable to private banks, the laws of this State contain no provisions covering the organization or operation of private banks:

"No person, co-partnership or corporation not subject to the supervision and examinations of the Bank Commissioner, and not required to make reports to him * * *, shall make use of any sign at the place where such business is transacted, having thereon any artificial or corporate name or other words indicating that such place or office is the place or office of a banking institution as defined in this Article"; nor shall such person or persons, make use of or circulate any advertising "indicating that such business is the business of a banking institution" A violation of these provisions constitutes a misdemeanor and subjects the person or persons committing such viola-

tion to certain prescribed penalties. "The provisions of this section shall not apply to persons, copartnerships, or corporations which, at the time this Act takes effect, (June 1, 1918), are engaged in business in incorporated towns or cities of the State of less than ten thousand inhabitants." (Annotated Code of Maryland, 1924, Vol. 1, Article Eleven sec. 78; Laws of 1910, ch. 219, sec. 74, as amended by Laws of 1912, ch. 194, sec. 74 and Laws of 1918, ch. 33, sec. 75; Banking Laws, 1927, sec. 78, p. 36.)

Definition of "Banking Institution."

"the words 'Banking Institutions', as used in this Article, shall be held to mean incorporated Banks, Savings Institutions and Trust Companies, * * * ". (Annotated Code of Maryland, 1924, Vol. 1, Article Eleven Sec. 52; Laws of 1910, ch. 219, sec. 51; Banking Laws, 1927, sec. 52, p. 27.)

MASSACHUSETTS.

No provisions prohibiting private banking business; but certain advertising, and receiving deposits as savings bank or trust company prohibited.

The laws of this State do not contain any provisions with reference to the organization or establishment of private banks or bankers, except as indicated in last paragraph hereof, and except for the prohibitions embraced in the following provisions, the laws are silent with regard to the operation of such banks or bankers. The following provisions prohibit the receipt of deposits as a savings bank or trust company, and the use of any advertising or banking terms indicating that the place of business or the business carried on is that of a savings bank or trust company, by any person, partnership or association other than savings banks and trust companies incorporated under the laws of Massachusetts.

Prohibition against receipt of certain deposits and use of specific banking terms and other advertising.

" * * * no person, partnership or association except savings banks and trust companies incorporated under the laws of this commonwealth", and certain foreign banking corporations, shall hereafter make use of any signs or other advertising indicating that the place of business or business transacted is that of a savings bank; "nor shall any such * * * person, partnership or association, * * * solicit or receive deposits or transact business in the way or manner of a savings bank, or in such a way or manner as to lead the public to believe, or as in the opinion of the commissioner might lead the public to believe, that its business is that of a savings bank; nor shall any person, partnership, * * * or association, (excepting certain institutions not connected with or related to private banks or bankers) * * *

hereafter transact business under any name or title which contains the word 'bank' or 'banking', or any word in a foreign language having the same or similar meaning, as descriptive of said business, or, if he or it does a banking business or makes a business of receiving money on deposit, under any name or title containing the word 'trust', or any word in a foreign language having the same or similar meaning, as descriptive of said business." (General Laws, ch. 167, sec. 12; as amended Act 1921, ch. 78, sec. 1; Act 1922, ch. 114; Banking Law Pamphlet Relating to Savings Banks, 1929, ch. 167, sec. 12, p. 4.)

Bank Commissioner may examine books, accounts, etc. to ascertain whether law is being violated.

"The commissioner or his examiners may examine the accounts, books and papers of any * * * person, partnership or association making a business of receiving money on deposit, or which has the word 'bank', 'banking', 'banker', 'bankers', or 'trust', or any word in a foreign language having the same or similar meaning, in the name under which its business is conducted, in order to ascertain whether such * * *, person, partnership or association has violated or is violating any provision of the preceding section; and any * * *, person, partnership or association refusing to allow such examination or violating any provision of said section shall forfeit to the commonwealth one hundred dollars a day for every day or part thereof during which such refusal or violation continues." (General Laws, ch. 167, sec. 13; as amended Acts 1921, ch. 78, sec. 2; Banking Law Pamphlet Relating to Savings Banks, 1929, ch. 167, sec. 13, p. 4.)

Commissioner shall report violations to Attorney General; procedure to restrain violation.

Any refusal to permit such an examination, or any violation of the provisions first above quoted "shall forthwith be reported by the commissioner to the Attorney General. The said forfeiture may be recovered by an information or other appropriate proceeding brought in the Supreme Judicial or Superior Court in the name of the Attorney General. Upon such information or other proceeding the court may issue an injunction restraining such * * * , person, partnership or association from further prosecution of its business within the commonwealth during the pendency of such proceeding or for all time, and may make such other orders or decrees as equity and justice may require." (General Laws, ch. 167, sec. 13; as amended Acts 1921, ch. 78, sec. 2; Banking Law Pamphlet Relating to Savings Banks, ch. 167, sec. 13, p. 4.)

Further prohibition against use of term "Trust Company" or receiving deposits as trust company.

"No person or association and no bank or corporation, except trust companies, shall use in the name or title under which his or its business is transacted the words 'Trust Company' even though said words

may be separated in such name or title by one or more other words, or advertise or put forth a sign as a trust company or in any way solicit or receive deposits as such. Whoever violates this section shall forfeit one hundred dollars for each day during which such violation continues." Certain foreign corporations are excepted from the provisions of this section. (General Laws, ch. 172, sec. 4; as amended Acts 1923, ch. 41; Trust Company Law Pamphlet, ch. 172, sec. 4, p. 15.)

Persons engaged in the receipt and transmission of funds to foreign countries.

Persons engaged in the business principally or in conjunction with that of selling railroad or steamship tickets or in the supplying of laborers, receiving deposits for safe keeping or transmitting the same or equivalents to foreign countries shall, "before engaging or becoming financially interested or continuing to engage or be financially interested in the business of receiving deposits of money for the purpose of transmitting the same or equivalents thereof to foreign countries, make, execute and deliver to the state treasurer a bond in a sum equal to twice the amount of money or equivalents thereof transmitted to foreign countries by such person in any one week, as determined by the commissioner of banks, in this chapter called the commissioner, but in no event shall the sum of the bond be less than fifteen thousand dollars; provided, that the sum of such bond shall be increased on order of the commissioner at any time to such amount as shall be shown by examination to be necessary. Said bond shall be conditioned upon the faithful holding and transmission of any money or equivalents thereof which shall have been delivered to such person for transmission to a foreign country, and, in the event of the insolvency or bankruptcy of the principal, upon the payment of the full amount of such bond to the assignee, receiver or trustee of the principal, as the case may require for the benefit of such persons as shall have been delivered money or equivalents thereof to said principal for the purpose of transmitting the same to a foreign country." (Acts 1923, ch. 473, sec. 2; Acts 1929, ch. 182, sec. 2.)

MICHIGAN.

Private banks expressly prohibited; exception.

"On and after the effective date of this act (1925), it shall be unlawful for any individual person, or unincorporated association of individual persons, to engage in the business of banking, * * *: Provided, That this act shall not apply to any individual person or unincorporated association of individual persons engaged in the business of banking at the time of the passage of this act." (Public Acts of 1925, Act No. 284, sec. 1; Banking Laws, 1929, sec. 364, p. 105.)

Penalty for establishment of private bank.

"From and after the passage of this act, no person or association of persons, not incorporated under the banking laws of this State

and not now engaged in the private banking business, shall open up or attempt to operate any private bank, and any such operation or attempt shall be deemed a violation of this act, and the persons so operating or attempting to operate shall be deemed guilty of a felony, and on conviction thereof shall be punished by a fine not exceeding one thousand dollars or by imprisonment in the State prison for not more than five years, or by both such fine and imprisonment in the discretion of the court: Provided, That nothing in this act contained shall be construed to prohibit the surviving partner or partners of a copartnership from continuing the operation of any private bank operated by such copartnership at the time this act shall take effect." (Public Acts of 1925, Act No. 284, sec. 2; Banking Laws, 1929, sec. 365, p. 105.)

MINNESOTA.

"Individual or co-partnership" prohibited from transacting business of savings bank, safe deposit company or trust company.

From the following provisions, it appears that "a person, firm, individual or copartnership" is prohibited from advertising or engaging in business in any way as a savings bank, safe deposit company or trust company.

Provisions prohibiting business as savings bank, etc.

"No individual, co-partnership or corporation other than a savings bank or safe deposit and trust company subject to and complying with all the provisions of law relating to such bank or safe deposit and trust companies respectively, shall in any manner display or make use of any sign, symbol, token, letterhead, card, circular, advertisement stating, representing or indicating that he, it, or they, are authorized to transact the business which a savings bank, safe deposit or trust company usually does, or under said provision are authorized to do; nor shall any such individual, co-partnership or corporation use the words 'savings' or 'trust' or 'safe deposit' alone or in combination in title or name or otherwise or in any manner solicit business or make loans or solicit or receive deposits or transact business as a savings bank or safe deposit or trust company. * * . Every individual, co-partnership or corporation which shall violate any of the provisions of this section shall forfeit to the State the sum of one hundred dollars for every day such violation shall continue." (Act approved March 21, 1929, Laws of 1929, ch. 77, sec. 1; Banking Laws, 1929, sec. 1, p. 18.)

"Bank", "savings bank", "trust company" and "banking" defined.

"A bank is a corporation under public control, having a place of business where credits are opened by the deposit or collection of money and currency, subject to be paid or remitted upon draft, check, or order, and where money is advanced, loaned on stocks, bonds, bullion, bills of exchange, and promissory notes, and where the same are received for discount or sale; and all persons and co-partnerships, respectively, so operating, are bankers.

"A savings bank is an institution under like control, managed by disinterested trustees solely authorized to receive and safely invest the savings of small depositors.

"A trust company is a corporation under like control, authorized, within prescribed limitations, to act as a safe deposit company, trustee or representative for or under any court, public or private corporation, or individual, and as surety or guarantor." (General Statutes, 1923, sec. 7635; Banking Laws, 1929, p. 7)

"A 'bank' is a corporation having a place of business in this State, where credits are opened by the deposit of money or currency, or the collection of the same, subject to be paid or remitted on draft, check or order; and where money is loaned or advanced on stocks, bonds, bullion, bills of exchange or promissory notes, and where the same are received for discount or sale. A 'savings bank' is a corporation managed by disinterested trustees, solely authorized to receive and safely invest the savings of small depositors. Every 'bank' or 'savings bank' in this State shall at all times be under the supervision and subject to the control of the public examiner, (superintendent of banks) * * * and when so conducted said business shall be known as 'banking'." (General Statutes, 1923, sec. 7636; Banking Laws, 1929, p. 8).

Restriction against use of word "bank".

"Any person, firm or corporation carrying on in this State the business, or any part thereof, defined as 'banking' in the preceding section, who refuses to permit the public examiner (superintendent of banks) to inspect and superintend said business, and to see that the same is carried on in accordance with the banking laws of this State shall not be permitted to use the word 'bank' as the whole or any part of the business name of the place where said business is carried on, nor shall the word 'bank' be used on any stationery or in any advertisement of said business, as the whole or any part of the name or description of said business." (General Statutes, 1923, sec. 7637; Banking Laws, 1929, p. 8.)

MISSISSIPPI.

Banking business may only be transacted by corporations.

The laws of this State provide that "any person or firm now engaged in the banking business" as described below, "shall incorporate within six months after this (banking) act goes into effect. This section shall not apply except when such corporations keep the actual money on deposit or solicit outside deposits, but any person or association of

"persons now engaged in the banking business in this State shall be subject to all the provisions of this (banking) act until such person, persons or associations of persons shall be or become incorporated as provided in this section". Any person or firm is doing a banking business, under the Mississippi laws, when he or it has "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, or sale of drafts or exchange drawn on local or foreign banks, *** ". (Laws of 1914, ch. 124, sec. 27; Brown's Miss. and Fed. Stats., 1925, sec. 27, p. 43).

MISSOURI.

Private banks may not now be established.

By an act enacted in the year 1915, this state prohibited the establishment of new private banks, the pertinent provision stating "that hereafter no new private bank shall be established". This act also contains detailed provisions covering the organization, operation and supervision of banks and apparently permitted private banks who were engaged in a banking business at the time of its passage to continue the operation of such business upon complying with the provisions covering incorporated banks so far as the same are applicable." In addition, the act contains provisions specifically applicable to private banks, these provisions being set forth below.

Definition of "private bankers".

"Private bankers are declared to be those who carry on the business of banking by receiving money on deposit, with or without interest, by buying and selling bills of exchange, promissory notes, gold or silver coin, bullion, uncurrent money, bonds or stocks, or other securities, and of loaning money, without being incorporated." (Laws of 1915, p. 157; Rev. Stats. of Mo., 1929, sec. 5403; Banking Laws, 1919, sec. 11781, p. 88.)

Capital requirements.

A private banker could not engage in business "without a paid-up capital of not less than ten thousand dollars, and if said banking business is to be carried on in a city having a population of one hundred and fifty thousand inhabitants or more, then without a paid-up capital of not less than one hundred thousand dollars, * * * ". (Laws of 1915, p. 157; Rev. Stats. of Mo., 1929, sec. 5404; Banking Laws, 1919, sec. 11782, p. 88.)

Sworn statement necessary; contents of

Before engaging in business a private banker also had to file "a statement, subscribed and sworn to as correct and true before a notary public by each person connected with such business as owner or partner, setting forth: First, the names and places of residence of all

"persons interested in the business, all of whom shall be residents of this state, the amount of capital invested; and second, the name in which the business is to be conducted and the place at which it is to be carried on; which statement shall be acknowledged, recorded in the office of the recorder of deeds of the county in which the bank is to be located, and a certified copy of such recorded instrument shall be filed in the office of the bank commissioner: * * *". (Laws of 1915, p. 157; Rev. Stats. of Mo., 1929, sec. 5404; Banking Laws, 1919, sec. 11782, pp. 88 and 89).

Cashier must give bond; condition of.

"The cashier of each private bank shall give bond to the state of Missouri, for such sum, and conditioned, as may be required by the commissioner, which shall be approved by the commissioner, and filed in his office." (Laws of 1915, p. 158; Rev. Stats. of Mo., 1929, sec. 5407; Banking Laws, 1919, sec. 11785, p. 90).

License fee or tax.

"No private banker * * *, after having made, recorded and filed the statement required by this article, shall be required to pay any license or tax not required of banks." (Laws of 1915, p. 158; Rev. Stats. of Mo., 1929, sec. 5408; Banking Laws, 1919, sec. 11786, p. 90.)

Provisions covering incorporated banks made applicable.

All of the provisions of law covering the organization, operation and supervision of incorporated banks "shall, so far as the same are applicable, apply to all private bankers doing business in this State; * * * " (Laws of 1915, p. 158; Rev. Stats. of Mo., 1929, sec. 5407; Banking Laws, 1919, sec. 11785, p. 90)

Loan on personal security of owner in excess of 10% of capital prohibited; violation cause for appointment of receiver.

A private banker cannot make any loan or discount on the personal security or obligation of any owner in excess of ten per cent of the paid up capital and surplus of the bank. A violation of this prohibition empowers the bank commissioner "in his discretion, to make application for the appointment of a receiver for such private bank or banker, as now provided by law in case of insolvent banks and trust companies." (Laws of 1915, p. 157; Rev. Stats. of Mo., 1929, sec. 5405; Banking Laws, 1919, sec. 11783, p. 89).

Restriction upon use of funds.

"No private banker shall employ any part of his capital, or any funds deposited with or borrowed by him, in dealing or trading in, buying or selling lands, goods, chattels, wares or merchandise, but he may sell and dispose of all kinds of property which may necessarily come into his possession in the collection of his loans or discounts." (Laws of 1915, p. 158; Rev. Stats. of Mo., 1929, sec. 5406; Banking Laws, 1919, sec. 11784, p. 89.)

Loans to one borrower and other use of funds.

A private banker may not "use or employ his capital or funds deposited with or borrowed by him in any other manner than banks are * * * permitted, or loan a greater amount to any person or loan any sum whatever, except upon like security as is required to be taken by banks." (Laws of 1915, p. 158; Rev. Stats. of Mo., 1929, sec. 5406; Banking Laws, 1919, sec. 11784, p. 89).

Surplus of 20% of capital required before profits may be distributed.

The profits of a private banker may not be distributed "without first setting apart to surplus accounts at least twenty per cent of the net profits each year until the surplus equals twenty per cent of the capital, and said surplus shall not be diminished except for the payment of any losses which may occur: Provided, if there are undivided profits, these shall first be used in payment of such losses." (Laws of 1915, p. 158; Rev. Stats. of Mo., 1929, sec. 5406; Banking Laws, 1919, sec. 11784, p. 89.)

Penalty for violation of provisions.

Any private banker who fails to make and file the statement required of incorporated banks or so much thereof as the bank commissioner may require "or shall fail or refuse to make or render any other report or statement required by the banking laws of this state, or who shall, wilfully and corruptly, make any such statement falsely, or who shall violate any of the provisions of this article (covering incorporated and private banks), he or they, and each of them shall be deemed guilty of a misdemeanor, and, upon conviction thereof, upon information or indictment, shall be punished by a fine, for each offense, not exceeding five thousand dollars nor less than five hundred dollars, or by imprisonment not less than one nor more than twelve months in the city or county jail, or by both such fine and imprisonment." (Laws of 1915, p. 158; Rev. Stats. of Mo., 1929, sec. 5407; Banking Laws, 1919, sec. 11785, p. 90.)

"If at any time the commissioner shall be satisfied that any private banker * to which has been issued an authorization certificate or license, is violating any of the provisions of this chapter, or is conducting its business in an unauthorized or unsafe manner, or is in an unsound or unsafe condition to transact its business, or cannot with safety and expediency continue business, the commissioner may, over his official signature and seal of office notify the holder of such authorizetion certificate or license that the same is revoked." (Rev. Stats. of Mo., 1929, sec. 5299).

MONTANA.

Banking business may only be transacted by corporations; exception.

The laws of this state provide that "It shall be unlawful for any corporation, partnership, firm, or individual to engage in or trans-

act a banking business within this state, except by means of a corporation duly organized for such purpose. * * * this (bank) Act shall not apply to any person, firm or association now doing a private banking business; provided, however, that said private banks hereinabove referred to shall come under all of the provisions of this Act which may be fairly applicable thereto; * * * ". (Laws of 1927, ch. 89, sec. 2; Banking Laws, 1927, sec. 2, p. 8)

Advertising before issuance of charter; penalty

"It shall be unlawful for any individual, firm or corporation to advertise, publish or otherwise promulgate that it is engaged in the banking business without first having obtained authority from the Department of Banking, * * * . Any such individual, or member of such firm, or officer of any such corporation so offending, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished as provided by the laws of this State." (Laws of 1927, ch. 89, sec. 107; Banking Laws, 1927, sec. 107, p. 60)

As stated above, private bankers who were engaged in the transaction of a banking business as of the passage of the so-called bank act, March 8, 1927, are required to comply with such provisions of the bank act as "may be fairly applicable thereto". The bank act also contains other provisions which are specifically applicable to these private bankers, these provisions being set forth below.

Name of private bank.

The name of a private bank must contain the name of the individual conducting the business, or, if a copartnership or association, the name of at least one actual and responsible member thereof, "in addition to which name there shall be no other designation then the words 'bank of', 'Banking house of' 'banker', or 'bankers'. Nothing in this section shall apply to any person, firm or association now conducting a private banking business in this state, which bank is now authorized by the State Banking Department to do a banking business". (Laws of 1927, ch. 89, sec. 82; Banking Laws, 1927, sec. 82, p. 52).

"Approved property or assets" must be owned before deposits may be received.

Every private bank must before receiving any money on deposit "actually own and possess, within the State of Montana, approved property or assets not exempt from execution of the minimum value" of not less than $20,000; not less than $30,000 in cities and towns having a population of over 2,000 and up to 5,000; not less than $50,000 in cities having a population of 5,000 to 10,000; not less than $75,000 in cities having a population of 10,000 to 25,000; in all cities having a population of 25,000 or over the value of the property or assets must be $100,000. This financial condition must appear and be carried on the books of every private bank and these provisions "shall extend and be applicable separately to each and every private bank conducted by any person, co-partnership, or association, and no asset or assets shall appear on the books of more than one bank." (Laws of 1927, ch. 89, sec. 83; Banking Laws, 1927, sec. 83, p. 53).

Examinations; power of State Examiner.

Every private bank "shall be subject to examination and visitations of the State Examiner once each year, and oftener when deemed

"necessary by said examiner, who shall have full power and authority to investigate and examine all books, papers, and effects of any such bank or banking house for the purpose of ascertaining the financial condition of any such bank or banks, and shall have the power in aid thereof to administer oaths to any person or persons, or the agent or employees of any person or persons conducting such bank or banking business." (Laws of 1927, ch. 89, sec. 84; Banking Laws, 1927, sec. 84, p. 53).

Reports of condition; number and nature of; publication required.

The cashier of every private bank is required, on call of the superintendent of banks, to make not less than three reports of condition during each year, anyone of which must be not less than two months apart. These reports must be verified by the cashier, must be made in such form as the superintendent may prescribe, and must contain a full abstract of the general accounts of the bank and show under appropriate heads the resources and liabilities of the bank. A condensed form of each report must be published in the newspapers and proof of such publication is required to be made to the superintendent. The superintendent also has power to call for special reports whenever he considers that such reports are necessary. (Laws of 1927, ch. 89, sec. 86; Banking Laws, 1927, sec. 86, p. 54).

Penalty for receiving deposits while bank is insolvent or for making false statements or entries.

Any person, or the members of any private bank, who receives deposits when such person or private bank is insolvent "or who subscribes or makes any false statement, or entries in the books of any such bank, or who knowingly subscribes or exhibits any false papers, with the intention of deceiving any person authorizing (authorized) to examine the condition of any bank provided for in this Act, or who wilfully subscribes or makes false reports to the Superintendent of Banks, shall be guilty of a felony, and shall be punishable by imprisonment in the State prison for a term not exceeding five (5) years." (Laws of 1927, ch. 89, sec. 87; Banking Laws, 1927, sec. 87, p. 55).

Pledging of assets.

"No * * * banker * * * shall, except as otherwise authorized by law, pledge or hypothecate as collateral security for money borrowed, its assets in a ratio exceeding one and one half times the amount borrowed (except as otherwise authorized by the Superintendent)." (Laws of 1927, ch. 89, sec. 99; Banking Laws, 1927, sec. 99, p. 58).

Taxation of private banks.

The laws of this state also contain detailed provisions covering the taxation of private banks. (Laws of 1927, ch. 64, sec. 1; Banking Laws, 1927, sec. 1 (2067), pp. 78 and 79).

NEBRASKA.

Banking business may only be transacted by corporations.

The laws of this State provide that the business of banking may only be transacted by corporations duly organized for that purpose. The provisions in this connection read as follows:

"The department of trade and commerce shall have general supervision and control of banks and banking under the laws of this state and no person or persons shall be permitted to engage in or transact a banking business save corporations having complied with the provisions of this article." (Comp. Stat. of Nebraska, 1922, sec. 7982; Banking Laws, 1929, sec. 7982, p. 3).

"It shall be unlawful for any corporation, partnership, firm or individual to engage in or transact a banking business within this state, except by means of a corporation duly organized for such purpose under the laws of this state." (Comp. Stat. of Nebraska, 1922, sec. 7984; Banking Laws, 1929, sec. 7984, p. 3).

NEVADA.

Private banking business must be licensed; provisions of bank act applicable.

In order to engage in the business of banking in this State a private banker must obtain a license to do so and is subject "as far as may be" to the provisions of law covering incorporated banks.

Necessity for license.

"No individual, *** banking firm, *** company, *** shall engage in the banking business in this state without first obtaining from the bank examiner a license in the form presented by him, authorizing such individual, firm, *** company, *** to use the name and transact the business of a bank; ***" (Act of March 22, 1911, sec. 47; Banking Laws, 1930, sec. 47, p. 16).

Subject to supervision and control of State banking board and bank examiner; bank act made applicable.

"The state board of finance, sitting as the Nevada state banking board, shall have, in connection with the state bank examiner, supervision and control of banks and banking in this state, and no persons, firms, associations, or corporations shall be permitted to engage in the banking business in this state, save in compliance with this (bank) act." (Act of March 22, 1911, sec. 49, as amended by Laws of 1919, p. 285; Banking Laws, 1930, sec. 49, p. 16). The laws also

provide that "All of the provisions of this (bank) act shall be applicable as far as may be to individuals, firms, or associations, as well as to corporations." (Act of March 22, 1911, sec. 8; Banking Laws, 1930, sec. 8, p. 6).

Definition of words used in bank act.

"The words 'corporation,' 'banking corporation,' 'bank', 'trust company,' or 'banker', as used in this (bank) act, shall refer to and include banks, savings banks, and trust companies, individuals, firms, associations, and corporations of any character conducting the business of receiving money on deposit or otherwise carrying on a banking or trust company business, except as herein specially provided." (Act of March 22, 1911, sec. 75; Banking Laws, 1927, sec. 75, p. 23).

NEW HAMPSHIRE.

Private banks subject generally to banking and taxation laws.

The laws of this State provide that "Every association or partnership formed for the purpose of loaning money or dealing in money, receiving deposits, buying or selling exchange or transacting such other business as is usually transacted by banks, shall be a bank for the general purposes of this title and for taxation. The clerk or cashier of every such bank shall make the same returns to towns where its stockholders reside as the cashiers of other banks are by law required to make." (Public Stats., ch. 164, sec. 5; Public Laws, 1926, ch. 260, sec. 24; Banking Law Pamphlet, 1929, ch. 261, sec. 24, p. 9).

"This title" (XXVI) is that portion of the laws of New Hampshire relating to and covering the operation of banks, savings banks, and trust companies; and, apparently, the provision above quoted recognizes a private banking business, but requires such business to be conducted in accordance with the provisions of the laws relating to incorporated banking institutions and the taxation thereof, in so far as it is possible generally so to do. In addition, the laws contain certain provisions which are specifically applicable to private banks. These provisions are set out below.

Owners deemed stockholders; capital for taxation purposes.

"Every person owning any portion of the funds employed in any private bank shall be deemed a stockholder therein. The average amount of the capital of such private bank during the preceding year shall be the capital of such bank subject to taxation as stock." (Public Stats., ch. 164, sec. 6; Public Laws, 1926, ch. 260, sec. 25; Banking Law Pamphlet, 1929, ch. 260, sec. 25, p. 9).

Liability of stockholders.

"The stockholders of any private bank shall be liable as partners for all the debts and obligations of the bank." (Public Stats., ch. 164, sec. 7; Public Laws, 1926, ch. 260, sec. 26; Banking Law Pamphlet, 1929, ch. 260, sec. 26, p. 9).

Prohibition against advertising or transacting business as savings bank.

No person, partnership or association, "except savings institutions incorporated in this state", can make use of any sign or other form of advertising indicating that the place of business or business carried on is that of a savings bank, or "receive deposits and transact business in the way or manner of a savings bank, or in such a way or manner as to lead the public to believe, or, in the opinion of the commissioner, might lead the public to believe", that the business is that of a savings bank. (Laws of 1907, ch. 112, sec. 2; Public Laws, 1926, ch. 261, secs. 53-55; Banking Law Pamphlet, 1929, ch. 261, secs. 53-55, p. 18).

Examination to ascertain whether above provision is being violated.

"The commissioner shall have the authority to examine the accounts, books and papers of any ***, person, partnership or association which makes a business of receiving money on deposit in order to ascertain whether they have violated" the provisions last above referred to, and a penalty is prescribed for any such violation. (Laws of 1907, ch. 112, sec. 3; Public Laws, 1926, ch. 261, secs. 56 and 57; Banking Law Pamphlet, 1929, ch. 261, secs. 56 and 57, p. 19).

Recovery of penalty and injunction to restrain further prosecution of business.

"Any violation of *** (such) provisions *** shall forthwith be reported by the commissioner to the Attorney General; and the forfeiture may be recovered by an information or other appropriate proceeding brought in the superior court in his name. Upon such information or other proceeding the court may issue an injunction restraining such person, partnership, *** from further prosecution of its business within this state during the pendency of such proceeding or for all time, and may make such other order as justice may require." (Laws of 1907, ch. 112, sec. 3; Public Laws, 1926, ch. 261, secs. 58 and 59; Banking Law Pamphlet, 1929, ch. 261, secs. 58 and 59, p. 19).

Treasurer of savings bank shall not carry on private banking business.

"No treasurer or person acting as treasurer of a savings bank shall carry on or be engaged in the business of private banking, or shall suffer such business to be carried on in the office of the bank", and if any person violates these provisions "he shall be fined not more than one thousand dollars, or imprisoned not more

than one year or both". (Public Laws 1926, ch. 261, secs. 4 and 5.).

NEW JERSEY

Penalty for carrying on banking business without authority.

"No individual, association of individuals, partnership or joint stock association, shall engage in the business of banking, except under and in accordance with the provisions of this act, unless possessed of unencumbered assets of at least fifty thousand dollars, and that any such individual, association of individuals, partnership or joint stock association and the individual members thereof, who shall violate the provisions of this act and carry on the business of banking without authority, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five thousand dollars, or by imprisonment at hard labor for a term not exceeding seven years, or both." (Laws of 1925, ch. 189, p. 454; Comp. Stat. of N. J., Supplement, 1925-1930, Sec. 17-44.).

Private banker must be a citizen of the United States and at least one member of the firm must reside in State.

"No individual or individuals shall engage in the business of banking who are not citizens of the United States, and no individual, association of individuals, partnership or joint stock association, shall engage in the business of banking within this State unless one or more of the persons so engaged shall be residents in and inhabitants of this State, and for every violation of the provisions of this section, the person or persons so offending shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be liable to a fine of not more than one thousand dollars, and in all reports that shall be made by such individual, association of individuals, partnership or joint stock association, the full names and places of residence of each of the persons so interested shall be fully set out." (Laws of 1925, ch. 189, p. 454; Comp. Stat. of N. J., Supplement, 1925-1930, Sec. 17-47.).

Insolvency, etc.; commissioner may apply for injunction or receiver.

In case it appears from any report made by or any examination of any private bank that such bank is insolvent or is unable to pay its obligations as they severally mature, or is unable to pay its depositors the money held by it on deposit whenever called upon so to do, or shall suspend its ordinary business for want of funds to carry on the same, or shall not be possessed of unencumbered assets of at least fifty thousand dollars in excess of its liabilities, the commissioner, or any creditor of the bank, may apply "to the chancellor" for an injunction or the appointment of a receiver. If after a hearing, it appears to the chancellor that the private bank is insolvent, or is not able to resume business

with safety to the public and advantage to the creditors, or is not possessed of unencumbered assets of at least fifty thousand dollars in excess of its liabilities, the chancellor may issue an injunction to restrain such private bank from further carrying on business, and if insolvent, from collecting or receiving any debts, or from paying out, selling, assigning or transferring any of the assets, moneys, funds, lands, tenements or effects belonging to it, until the court otherwise orders. (Laws of 1925, ch. 189, p. 455; Comp. Stat. of N. J., Supplement, 1925-1930, Sec. 17-48.).

Certificate of authority necessary to engage in business; examination by commissioner.

"No individual, association of individuals, partnership or joint stock association shall engage in the business of banking in this State unless authorized thereunto by the commissioner of banking and insurance by his certificate to that effect, and such certificate shall not be made or issued by the said commissioner until after the said individual, association of individuals, partnership or joint stock association, shall have made to him the report or reports required by this act; and not until after the said commissioner of banking and insurance, or some person appointed by him, shall have made an examination of the affairs and financial condition of such individual, association of individuals, partnership or joint stock association, from which it shall appear to said commissioner that he or they are then solvent and able to pay his or their debts at maturity, and are possessed of unencumbered assets of at least fifty thousand dollars in excess of his or their liabilities; provided, the commissioner of banking and insurance may refuse to issue such certificates of authorization if in his judgment the interests of the public would be best subserved by such refusal;" (Banking Laws of 1925, ch. 189, p. 456; Comp. Stat. of N. J., Supplement, 1925-1930, Sec. 17-51.).

Advertisements indicating banking business.

"that no individual, association of individuals, partnership or joint stock association, not authorized under this act to do a banking business, shall make use of any office sign at the place where his or their business is transacted, having thereon any artificial or corporate name or other word or words indicating that such place or office is the place or office of a bank, nor in any manner advertise that he or they are engaged in a banking business, nor make use of or circulate any letterheads, billheads, blank notes, blank receipts, certificates, circulars or any written or printed or partly written and partly printed paper whatever, having thereon any artificial or corporate name or any other word or words indicating that his or their business is that of a bank." (Laws of 1925, ch. 189, p. 456, Comp. Stat. of N. J., Supplement 1925-1930, Sec. 17-51.).

NEW MEXICO.

Provisions of "bank act" made applicable to "individuals and co-partnerships."

The laws of this State provide that "This act shall be known as the 'Bank Act' and shall be applicable to all corporations, individuals and copartnerships specified in the next section, except as hereinafter specifically excepted." (Laws of 1915, ch. 67, sec. 1; New Mexico Stats. Ann., 1929, sec. 13-101; New Mexico Bank Code, 1929, sec. 1, p. 5.). The "next section" referred to sets out that "The word 'Bank' as used in this (bank) act includes every person, firm, company, copartnership or corporation, except National Banks, engaged in the business of banking in the State of New Mexico." (Laws of 1915, ch. 67, sec. 2; New Mexico Stats. Ann., 1929, sec. 13-102; New Mexico Bank Code, 1929, sec. 2, p. 5). The bank act provides further that "When by the provisions hereof anything is required to be done by any incorporated bank, or other corporation, carrying on a banking business under any of the provisions of this act, or by the Board of Directors of any such incorporated bank or corporation, or any officer, director or employee thereof, or their right or power to do a specific act is denied, the same act shall be done, or not, as the case may be, by individuals or copartners engaged in the banking business." (Laws of 1915, ch. 67, sec. 7; New Mexico Stats. Ann., 1929, sec. 13-107; New Mexico Bank Code, 1929, sec. 7, pp. 5 and 6.).

It would appear, therefore, that these provisions have the effect of subjecting persons, firms, copartnerships and unincorporated banks to the same provisions as are made applicable to incorporated banks. In addition the bank act makes the following requirements specifically applicable to private banks:

Private bankers engaged in other business in addition to that of banking; capital required; separation of capital; payment of creditors; manner of keeping books; bank act requirements covering reserves, deposits, investments, etc., made applicable.

"All persons, (and) co-partnerships * * * engaged in business, a portion only of which is banking, shall set apart and keep separate so much capital for banking as may be necessary for conducting a bank * * *. The capital so set apart and the assets of said bank or banking department shall be first applicable to the payment of the creditors thereof, as distinguished from the general creditors of the persons, (or) co-partnerships * * * conducting the same. Every person, (or) co-partnership * * * so carrying on a banking business in connection with any other business shall keep separate books of account for each banking business, and shall be governed as to all deposits, reserves, investments and transactions relating to such banking business, by the provisions of this act provided for

the control of such banking business, and with respect to said banking business or banking department shall be subject to all the provisions of this act." (Laws of 1915, ch. 67, sec. 9; New Mexico Stats. Ann., 1929, sec. 13-109; New Mexico Bank Code, 1929, sec. 9, p. 6.).

Certified statement as to capital stock, names and residences of co-partners, amount of capital owned by each.

The bank act provides that "any individual or co-partnership desiring to conduct a banking business shall file in the office of the State Bank Examiner and of the State Corporation Commission a similar statement" as that filed by a corporation. The laws with reference to the statement filed by a corporation provide that "As soon as ten per cent of the capital stock and surplus of the corporation shall be fully paid in cash, a copy of the by-laws of said bank and the oaths of its directors shall be filed in the office of the State Bank Examiner and of the State Corporation Commission, together with a statement executed on behalf of the corporation and sworn to by its president, and cashier or secretary, certifying: the full amount of the entire capital stock of said corporation subscribed; the names and residences of the officers, directors and stockholders of said corporation; the amount of stock owned by each, and the fact that such corporation will be fully prepared to transact the business for which it was organized, upon the payment in cash of the remaining ninety per cent of the capital stock and surplus." (Laws of 1929, ch. 131, sec. 5; New Mexico Stats. Ann., 1929, sec. 13-113; New Mexico Bank Code, 1929, sec. 13, p. 7).

Word "State" may not be used as part of title.

"Individuals and co-partners engaged in banking shall not use the word 'State' as part of the name of the banking business." (Laws of 1919, ch. 120, sec. 4; New Mexico Stats. Ann., 1929, sec. 13-114; New Mexico Bank Code, 1929, sec. 14, p. 8).

Ownership of stock by co-partners.

"Co-partners conducting a bank shall each own at least ten per cent" of the stock of the firm. (Laws of 1929, ch. 131, sec. 6; New Mexico Stats. Ann., 1929, sec. 13-117; New Mexico Bank Code, 1929, sec. 17, p. 9).

Oath required of owners.

Every owner of an unincorporated bank, actually engaged in its management, shall annually make an oath that he will diligently and honestly administer the affairs of the bank; that he will not knowingly violate, nor willingly permit to be violated, any provision of the law; and that he is the owner in good faith of the required amount of capital and that this capital is not pledged or incumbered.

The State Bank Examiner furnishes blanks for such oath and within twenty days after execution it must be filed with the State Bank Examiner. (Laws of 1919, ch. 120, sec. 8; New Mexico Stats. Ann., 1929, sec. 13-119; New Mexico Bank Code, 1929, sec. 19, p. 9.).

Penalty for failure to comply with provisions re oaths.

"Every bank failing to comply with the provisions of this section (regarding oaths) shall pay to the State Bank Examiner a penalty of Five Dollars for each day's delay." (Laws of 1919, ch. 120, sec. 8; New Mexico Stats. Ann., 1929, sec. 13-119; New Mexico Bank Code, 1929, sec. 19, p. 9).

Statement as to names and residences of owners and amount of stock held.

"Every bank shall, within twenty days after the first Tuesday in January of each year, upon a form to be furnished by the State Bank Examiner, file with the State Bank Examiner a statement sworn to by * * * at least two owners of an unincorporated bank, disclosing the names and residences of all *** owners thereof, together with the amount of stock or interest held by each. In the event of any change in the * * * owners of any unincorporated bank, such changes shall within twenty days be likewise certified to the State Bank Examiner." (Laws of 1919, ch. 120, sec. 9; New Mexico Stats. Ann., 1929, sec. 13-122; New Mexico Bank Code, 1929, sec. 22, p. 10).

Penalty for failure to comply with provisions re statement.

"Every bank failing to comply with the provisions of * * * (the) section (last above quoted) shall pay to the State Bank Examiner a penalty of Five Dollars for each day's delay." (Laws of 1919, ch. 120, sec. 9; New Mexico Stats. Ann., 1929, sec. 13-122; New Mexico Bank Code, 1929, sec. 22, p. 10).

Meetings of owners; examination of books, records, etc., required.

"The board of directors or owners of every bank shall hold regular meetings once each month. Failure on the part of any director without good cause to attend three consecutive meetings shall be ground for his removal by the State Bank Examiner. At not less than two of said meetings during each year, which meetings shall be at least five months apart, the board of directors or an auditing committee consisting of at least two members of the board of directors shall make a thorough examination of the books, records, funds, securities and other property held or owned by the bank, and shall enter upon their minutes the result of such examinations and a certified copy of such entry shall within twenty days from the date thereof be filed with the State Bank Examiner." (Laws of 1929, ch. 131, sec. 7; New Mexico Stats. Ann., 1929, sec. 13-123; New Mexico Bank Code, 1929, sec. 23, p. 10).

Penalty for failure to make such examination.

If the owners of any bank fail to make or cause to be made an examination of the books, records, funds, securities and other property held or owned by the bank, each of such owners is personally liable to a penalty of fifty dollars for every such failure. If this penalty is not paid within thirty days after demand therefor, the State Bank Examiner must institute civil proceedings to recover the same. No owner can be reimbursed out of the funds of the bank on account of any penalty paid, nor can any penalty be paid out of the funds of the bank. (Laws of 1929, ch. 131, sec. 7; New Mexico Stats. Ann., 1929, sec. 13-123; New Mexico Bank Code, 1929, sec. 23, p. 10).

Endorsement of paper of borrower by owner.

No owner in an unincorporated bank can become endorser for any person, firm or corporation borrowing money therefrom, nor can any note or obligation of such owner be considered as an asset of the bank. (Laws of 1919, ch. 120, sec. 20; New Mexico Stats. Ann., 1929, sec. 13-136; New Mexico Bank Code, 1929, sec. 35, p. 15.).

Declaration of dividend; surplus fund required.

The owners may semi-annually declare a dividend of so much of the net profits of the bank as has been actually earned and collected; but every bank must before the declaration of a dividend, carry one-fifth of its net profits for the preceding half year to its surplus fund until it amounts to fifty per centum of its capital stock, and such surplus must thereafter be maintained unless impaired by unavoidable losses. (Laws of 1929, ch. 131, sec. 11; New Mexico Stats. Ann., 1929, sec. 13-146; New Mexico Bank Code, 1929, sec. 45, p. 17).

NEW YORK

The laws of this State provide that if a private banker executes and has accepted by the superintendent of banks a certain affidavit, the required contents of which are hereinafter set forth, such banker is exempted from certain other provisions of law. The provisions covering such banker are digested immediately below.

A private banker who has not executed and had accepted by the superintendent the so-called exemption affidavit is subject, in addition to the provisions set out immediately below, to certain other provisions. These additional provisions are digested separately and follow after the provisions covering private bankers of the class first above referred to.

Definition of private banker.

"The term, 'private banker', when used in this chapter,

"means an individual, who, by himself, or as a member of a partnership or unincorporated association other than an unincorporated express company having a contract with a railroad company or railroad companies for the operation of an express service upon the lines thereof, is engaged in the business of receiving deposits subject to check or for repayment upon the presentation of a pass book, certificate of deposit or other evidence of debt, or upon the request of the depositor, or in the discretion of such individual, partnership or unincorporated association; of receiving money for transmission; of discounting or negotiating promissory notes, drafts, bills of exchange or other evidences of debt; of buying or selling exchange, coin or bullion; or is engaged in the business of transacting any part of such business. The term, 'private banker', when so used, shall include the executor or

administrator of a deceased private banker and a partnership or unincorporated association of private bankers." (Banking Law , sec. 2).

Classes of private bankers covered by provisions.

The laws of this State provide that the provisions applicable to private bankers, "except as hereinafter further limited, shall apply to every private banker engaged in the business of private banking in the State:

"1. Who makes use of the word 'bank,' 'banker,' 'banking' or any derivative or compound of any such word or any words in a foreign language having the same or similar meanings, in or on any sign or any passbook, check, receipt, note, stationery, billhead, certificate, blank, form, pamphlet, circular or newspaper or other advertising matter, or who solicits deposits by means of signs or other advertising; or

"2. Who pays or credits interest, or pays, credits or gives any bonus or gratuity or any thing of value, except on certificates of deposit actually outstanding at the time this act takes effect, to any depositor on any deposit balance of less than seven thousand five hundred dollars, if such deposit balance is that of any depositor resident in the United States who does not have with such banker during the period in respect of which interest is so paid or credited, an average daily credit balance or securities of an average daily market value, together exceeding seven thousand five hundred dollars; provided the aggregate amount of such deposit balances on which interest is so paid or credited exceeds two per centum of the total deposits of such private banker; or

"3. Who receives money on deposit for safekeeping or for any other purpose (other than for transmission to others) in such sums that the average of all the separate deposits so received by such private banker from all depositors during any twelve months' period (or for such period, if less than twelve months, that such private banker has been engaged in such business) is less than one thousand dollars. * * * ; or

"4. Who receives from any person at any one time money for transmission to others in any manner whatsoever in amounts of less than five hundred dollars, provided, however, that any private banker may, without thereby becoming subject to the provisions of this article, sell letters of credit, bankers' checks, travellers' checks, bills of exchange, drafts or other similar documents or may make cable transfers in amounts of less than five hundred dollars, if he has deposited and shall keep on deposit with the superintendent of banks interest bearing stocks or bonds of the United States or of this state or of any city, county, town, village or free school district in this state authorized by the legislature to issue the same, in a principal amount equal to one hundred thousand dollars. * * * ". (Banking Law , sec. 150).

Business not to be begun without authorization certificate of superintendent of banks.

None of the business comprised in the above definition of a private banker shall be carried on by any "individual, partnership or unincorporated association" unless an authorization certificate is granted by the superintendent of banks. (Banking Law, sec. 150-a).

Procedure to obtain authorization certificate.

Every private banker or other individual, partnership or unincorporated association seeking to engage in business as a private banker must submit to the superintendent of banks a verified certificate in duplicate which shall state:

"1. The full name, residence and post office address of such individual or of each member of such partnership or unincorporated association.

"2. The state, or country, of which each individual named in such affidavit is a citizen.

"3. The amount of permanent capital such individual, partnership or unincorporated association has kept invested in his business as a private banker or has deposited in cash to be invested in such business which shall be not less than the amounts hereinafter specified:

"(a) Fifteen thousand dollars if the place where the business is to be transacted is an incorporated or unincorporated village having a population which does not exceed two thousand;

"(b) Twenty-five thousand dollars if the place where the business is to be transacted is an incorporated or unincorporated village having a population of two thousand or more and less than ten thousand;

"(c) Fifty thousand dollars if the place where the business is to be transacted is an incorporated or unincorporated village or a city having a population of ten thousand or more and less than thirty thousand;

"(d) One hundred thousand dollars if the place where the business is to be transacted is a city having a population of thirty thousand or more.

"4. The place at which such business is to be transacted.

"5. If such private banker is engaged in business as a private banker in a city the population of which exceeds one hundred and seventy-five thousand, the amount of deposit balance upon which such

private banker pays or credits interest or pays, credits or gives any bonus or gratuity or anything of value to a depositor and the average of the separate deposits of such private banker since January first, nineteen hundred thirty, or for a period of twelve months immediately preceding the date of such verified certificate, exclusive of dividend checks, coupons or other small collection items collected by such private banker for customers in the ordinary course of business in; or, if the applicant has not already engaged in such business, said certificate shall state the minimum deposit balance upon which such applicant proposes to pay or credit interest or to pay, credit or give such bonus or gratuity, or thing of value.

"Such certificate shall be verified by such individual or by one or more members of a partnership or unincorporated association, in the discretion of the superintendent, upon a form prepared by the superintendent of banks, which shall state that the affiant or affiants have read such certificate and that the facts therein stated are true." (Banking Law , sec. 151).

When the superintendent receives the verified certificate, he must ascertain whether the character, responsibility and general fitness of the person or persons named in such certificate are such that the business of the proposed private banker will be honestly and efficiently conducted and whether the public convenience and advantage will be promoted by allowing such proposed banker to engage or continue in business. The superintendent is also required to ascertain whether the facts stated in the certificate are true in case the private banker has not submitted with it the so-called exemption affidavit or such affidavit has been refused by the superintendent. After the superintendent has satisfied himself that it is expedient and desirable to permit such private banker to engage or continue in business, he may approve the certificate and must immediately give notice of the approval to the private banker. (Banking Law , sec. 23).

Revocation of authorization certificate or license by superintendent; effect of.

"If at any time the superintendent shall be satisfied that any private banker * * * is violating any of the provisions of this chapter, or is conducting its business in an unauthorized or unsafe manner, or is in an unsound or unsafe condition to transact its business, or can not with safety and expediency continue business, the superintendent may, * * * notify the holder of such authorization certificate or license that the same is revoked." (Banking Law, sec. 29) It is also provided that "Whenever the superintendent shall have revoked his authorization of any such private banker, and shall have taken the action to make such revocation effective specified in section twenty-six of this chapter (section twenty-six provides for the revocation of the superintendent's acceptance

of the affidavit entitling private bankers to certain exemptions, and this section and the section covering the exemption affidavit are set out hereinafter), all the rights and privileges of such banker, resulting from such preceding authorization, shall forthwith cease and determine." (Banking Law , sec. 158).

Conditions precedent to transacting business.

No private banker can engage or continue in business until (a) the amount of permanent capital required by law is invested in the business, or is deposited in cash to be so invested, and (b) the superintendent of banks has issued an authorization certificate and has filed such certificate in his office. (Banking Law , sec. 152.) When the authorization certificate has been issued and filed by the superintendent of banks, a private banker is subject to all of the provisions relating to private bankers. (Banking Law , sec. 152).

Permanent unimpaired capital must be maintained; if impaired, superintendent may issue order to make deficiency good.

Every private banker must keep unimpaired in his banking business the amount of permanent capital specified in the verified certificate. (Banking Laws, sec. 154). Whenever it appears to the superintendent that the capital has been reduced below the requirements of law, he may issue an order directing that such deficiency be made good immediately or within a time specified in such order. (Banking Law , sec. 56).

Capital may be increased or decreased.

"From time to time, with the written approval of the superintendent and upon good cause shown, such permanent capital may be increased or decreased." (Banking Law , sec. 154).

Segregation of investment of capital and deposits.

"All securities, property and the evidences of title thereto, in which the permanent capital of and the deposits with any such private banker have been invested shall be segregated and kept separate and apart from all other property and assets of such private banker." (Banking Law , sec. 155).

Reserves required against deposits.

Every private banker is required to maintain total reserves against deposits in the following amounts (Banking Law , sec. 157):

18 per cent of demand deposits if located in a borough having a population of 1,500,000 or over; and at least 12 per cent of such deposits shall be maintained as reserve on hand.

15 per cent of demand deposits if located in a borough of 1,000,000 and less than 1,500,000 population and with no office in a borough of 1,500,000 or over; and at least 10 per cent of such deposits shall be maintained as reserves on hand.

12 per cent of demand deposits if located elsewhere in the state; and at least 4 per cent of such deposits shall be maintained as reserves on hand. (Banking Law , sec. 112).

Failure to maintain required reserves; penalties; superintendent may issue order to make deficiency good.

If any private banker fails to maintain the required reserves, "the superintendent shall levy an assessment upon it during such period as any encroachment upon its total reserves amounting to one per centum or more of its aggregate demand deposits shall continue", at certain prescribed rates. (Banking Law , secs. 30 and 157). The superintendent is given power, where a private banker refuses or fails to pay any such assessment or any penalty or forfeiture incurred under any provision of law, or where he violates any prohibition of law, to "report the facts to the Attorney General, who shall thereupon, in the name of the superintendent, institute such action or proceeding as the facts may warrant" against such private banker. (Banking Law , sec. 31). The superintendent is also given power, whenever it appears to him "that either the total reserves or reserves on hand of any such * * * private banker * * * are below the amount * * * required by law to be maintained, or that such * * * banker is not keeping its reserves on hand" to issue an order "directing that such * * * banker make good such reserves forthwith or within a time specified in such order, or that it keep its reserves on hand" as required by law. (Banking Law , sec. 56).

Reports of condition required.

"It shall be the duty of the superintendent to require all * * * private bankers * * * to make to him * * * regular periodical reports of their condition * * * and he shall prescribe the form and contents of all such reports. In addition to such regular reports he may require any such * * * banker * * * to make special reports to him at such times and in such form as he may prescribe, and may direct that such special reports be verified and prescribe the form of the verification.

"He shall at least once in every three months, designate some day therein in respect to which * * * every such private banker * * * (except such as have obtained certain exemptions through the filing of the affidavit hereinafter set forth) shall report to him, and he shall serve a notice designating such day." (Banking Law , sec. 42).

Examinations may be made by superintendent.

All private bankers engaged in business in cities or elsewhere in the State, from and after July 31, 1930, "shall be subject at all times to full and complete examinations by the superintendent or by his deputies, examiners or employees when duly authorized." (Banking Law , sec. 150-a).

Number of examinations required.

"The superintendent shall, either personally or by his deputies or examiners, at least twice in each year visit and examine * * * every private banker" subject to the provisions of law relating to private bankers, except such as have obtained certain exemptions through the acceptance by the superintendent of the affidavit hereinafter set forth. Private bankers who have had this affidavit accepted are only subject to examination once during each year. The superintendent is given power to examine private bankers "whenever, in his judgment, such examination is necessary or expedient.

"On every such examination inquiry shall be made as to the condition and resources of such * * * , banker * * * the mode of conducting and managing its affairs, * * *, the investment of its funds, the safety and prudence of its management, the security afforded to those by whom its engagements are held, and whether the requirements of its charter and of law have been complied with in the administration of its affairs; and as to such other matters as the superintendent may prescribe.

"The superintendent may also either personally or by his deputies or examiners, make such special investigations as he shall deem necessary to determine whether any individual, copartnership, unincorporated association * * * is violating, or has violated any of the provisions of this chapter; and to the extent necessary to make such determination the superintendent shall have the right to examine the relevant books, records, accounts, and documents." (Banking Law , sec. 39).

Penalty for refusal to permit examination.

A penalty is imposed for the refusal of a private banker to permit an examination or investigation of its affairs. (Banking Law , secs. 38 and 150-a).

Unlawful or unsafe practices; superintendent may issue order to discontinue.

"Whenever it shall appear to the superintendent that *** any private banker * * * has violated its charter or any law, or is conducting its business in an unauthorized or unsafe manner, he may issue an order directing the discontinuance of such unauthorized or unsafe practices and requiring the delinquent to appear before him,

"at a time and place fixed in said order, to present any explanation in defense of the practices directed in said order to be discontinued." (Banking Law , sec. 56).

Business of delinquent banker may be taken over by superintendent; and examinations may be made.

"The superintendent may forthwith take possession of the business and property of * * * any private banker * * * whenever it shall appear that such * * * banker:

1. Has violated its charter or any law;

2. Is conducting its business in an unauthorized or unsafe manner;

3. Is in an unsound or unsafe condition to transact its business;

4. Cannot with safety and expediency continue business;

5. Has an impairment of its capital;

6. Has suspended payment of its obligations;

7. Has neglected or refused to comply with the terms of a duly issued order of the superintendent;

8. Has refused, upon proper demand, to submit its records and affairs for inspection to an examiner of the banking department;

9. Has refused to be examined upon oath regarding its affairs." (Banking Law , sec. 57).

The superintendent, after he has taken possession of the property and business of a private banker, may make examinations and institute or continue inquiries until such banker resumes business or is finally liquidated in accordance with law. (Banking Law , sec. 39).

Circumstances under which possession of superintendent may terminate.

"When the superintendent shall have duly taken possession of such * * * private banker * * *, he may hold such possession until its affairs are finally liquidated by him, unless: (1) he shall have permitted such * * * banker to resume business * * *; (2) the superintendent shall have been directed by order of the supreme court to surrender such possession * * *; * * *; (4) the depositors and other creditors of such banker * * * and the expenses of such liquidation shall have been paid in full." (Banking Law , sec. 58).

Superintendent may permit resumption of business.

"The superintendent may, upon such conditions as may be approved by him, surrender possession for the purpose of permitting such * * * banker * * * to resume business; but the superintendent shall not authorize any reduction of capital stock or capital as one of the terms of such resumption." (Banking Law , sec. 61).

Liquidation; various provisions in relation thereto.

There are a number of detailed provisions with reference to the liquidation of the affairs of private bankers by the superintendent of banks. These provisions provide for the appointment of special deputies, assistants, etc., by the superintendent to assist him, the payment of expenses, the procedure to obtain possession of pleadings, etc., in actions in which attorneys' liens are asserted, the notification to those holding assets of the private bank of the fact that the superintendent has taken possession of such bank and the effect of such notification, the inventory of assets, the disposition by the superintendent of property held by the liquidating banker as bailee or as depositary, the liquidation and conservation of assets, the deposit of moneys collected by the superintendent, the appearance in suits, and the execution of instruments, etc., by the superintendent on behalf of the liquidating banker, the proof of claims by creditors, the listing of claims by the superintendent, the filing of objections to claims, the acceptance or refusal of claims by the superintendent, the effect of a lien on a judgment recovered by the superintendent after taking over a private banker, and the disposition of dividends to creditors. (Banking Law , secs. 62-75).

Change of location.

A private banker may change the location of his business with the permission of the superintendent of banks. (Banking Law , secs. 50 and 159).

Affidavit entitling private banker to certain exemptions; contents of; extent of exemptions.

"Any such private banker authorized by the superintendent to engage in such business, or who has applied for such authorization, may submit to the superintendent an affidavit executed in duplicate and verified in the same manner as the (verified) certificate * * * upon a form to be furnished by the superintendent containing a statment as follows:

"1. If such private banker is engaged in business elsewhere than in a city having a population of one hundred and seventy-five thousand or more, that such private banker has permanently invested

"in this state in his banking business immediately preceding the date of such affidavit, a capital over and above all his liabilities as such private banker at least equal to the minimum required by" the verified certificate; or

"2. If such private banker is engaged in business as a private banker in a city having a population of one hundred and seventy-five thousand or more:

"(a) That such private banker has permanently invested in this state in his banking business immediately preceding the date of such affidavit a capital of at least one hundred thousand dollars over and above all his liabilities as such private banker.

"(b) That such private banker will not pay or credit or advertise to pay or credit any interest or pay, credit or give any bonus or gratuity whatever or anything of value to any depositor on a deposit balance with such private banker of less than five hundred dollars.

"(c) That the average of the separate deposits * * * received by such private banker during the twelve months immediately preceding the date of such affidavit, for safekeeping or for any other purpose, exclusive of dividend checks, coupons, or other small collection items collected by such private banker for customers in the ordinary course of business, and also the average of the separate deposits received during such period for transmission to others, is three hundred dollars or more."

After the date upon which the superintendent has accepted and filed in his office such affidavit, and until such acceptance is revoked by the superintendent, the provisions hereinafter set out do not apply to such private banker, but such banker is subject to all of the provisions above set out. "The superintendent may at any time in his discretion require any such private banker to file an affidavit containing a statement as above specified and as of a date fixed in said request."

"In the event of the failure of such private banker so to do, or of the refusal of the superintendent to accept and file said affidavit all of the subsequent sections of this article (i.e., sections 161-175, inclusive) shall be applicable to such private banker". (Banking Law, sec. 160).

Investigation by superintendent of statements made in affidavit; refusal or acceptance of affidavit.

If, upon receipt by the superintendent of the affidavit above referred to, it fails to comply in form and substance with the requirements set out above, "he shall refuse to file it for examination until the defect or defects therein shall have been remedied". If such affidavit complies, or has been so amended as to comply, in all respects

with the requirements the superintendent shall, by such investigation as he may deem necessary, satisfy himself whether the facts stated in such affidavit are true. If the facts are found to be untrue, the superintendent shall refuse to accept the affidavit. If the superintendent shall be satisfied that the facts stated are true, he shall accept the affidavit and shall forthwith give notice of the acceptance to such private banker. (Banking Law , sec. 25).

Revocation of acceptance of affidavit; effect of revocation.

If at any time the superintendent has reason to believe that any private banker whose affidavit he has accepted "is not keeping permanently invested in this state in his banking business the amount of capital specified in such affidavit, or, that such banker is paying or crediting or advertising to pay or credit any interest, or is paying, crediting or giving any bonus or gratuity whatever or anything of value, on deposits of less than the amount stated in such affidavit, or that any material statement in such affidavit was in fact untrue, the superintendent shall forthwith institute such investigation as he shall deem necessary to ascertain the truth of such facts and may examine or cause an examination to be made into the books, papers and affairs of such private banker so far as may be necessary for such purposes. If from such investigation or otherwise the superintendent shall be satisfied that such banker is not keeping such capital so invested, or, that such banker is paying or crediting or advertising to pay or credit any interest, or is paying, crediting or giving any bonus or gratuity whatever or anything of value, on deposits of less than the amount stated in such affidavit, or that any material statement in such affidavit was in fact untrue, the superintendent may, over his official signature, notify such private banker that the acceptance of such affidavit is revoked. Such notice shall be executed in triplicate and the superintendent shall transmit one copy to such private banker, attach another to the duplicate of such affidavit on file in his own office and file the third copy thereof in the county clerk's office in which the other duplicate of such affidavit has been filed." (Banking Laws, sec. 26). It is also provided that "Whenever the superintendent shall have revoked his authorization of any such private banker, and shall have taken the action to make such revocation effective specified in section twenty-six of this chapter (this is the section last above quoted) all the rights and privileges of such banker, resulting from such preceding authorization, shall forthwith cease and determine." (Banking Law , sec. 158).

Additional Provisions Applicable To A Private Banker Who Has Not Executed The So-called Exemption Affidavit.

Investment of permanent capital and deposits.

"Every such private banker may, subject to the limitations and restrictions contained in this article, invest his permanent capital

"and the deposits received by him in such real or personal securities, or real and personal property, consistent with safety and prudence of management as he may deem proper, provided the security afforded depositors is not imperiled by such investments." (Banking Law , sec. 162).

Prohibitions against investments or loans of capital and deposits.

"No such private banker, however, shall appropriate to his own use or lend to any person or persons with whom he is associated as a partner, or invest in any business conducted by a partnership of which such private banker is a member, or lend directly or indirectly to any corporation of which he is the legal or equitable owner to the amount of twenty-five per centum or upwards of the issued capital stock of such corporation, any part of his permanent capital or of the deposits received by him." (Banking Law , sec. 162).

Real Estate and certain securities; when to be sold.

"All real estate which shall hereafter be purchased or otherwise acquired by any such private banker with his permanent capital or with money received by him on deposit or to which such private banker shall have taken title in connection with his business as such private banker, except that upon which his office is located, shall be sold within five years after taking title thereto; and all real estate so purchased or acquired, and held by such private banker at the time when this act takes effect, except that upon which his office is located, shall be sold within five years after this act takes effect; unless upon his application the superintendent of banks shall, in either case, have extended the time within which such sale shall be made.

"All such real estate and all registered securities and mortgages purchased by any such private banker with any part of his permanent capital or with money received by him on deposit, or held by any such private banker on the date when this act takes effect, shall be sold within one year after such date unless prior to the expiration of such year, such real estate or registered securities or mortgages shall have been recorded in the name of such private banker * * * ". (Banking Law , sec. 163).

Restrictions on purchase of, and loans on real estate.

"No such private banker shall hereafter purchase with any part of his permanent capital or deposits received by him any real estate which is subject to a mortgage, lien or encumbrance; nor make a loan, directly or indirectly, upon the security of real estate if such real estate is subject to a prior lien or encumbrance and the amount unpaid upon such prior mortgage, lien or encumbrance or the aggregate amount unpaid upon all prior mortgages, liens and encumbrances exceeds ten per centum of the permanent capital of such

"private banker, and, if the amount so secured, including all prior mortgages, liens and encumbrances, exceeds two-thirds of the value of such real estate." (Banking Law , sec. 164).

Books and records; superintendent may issue order to keep properly.

"Every such private banker shall keep separate and complete books of account in which shall be promptly entered the details of all business transacted by him as such banker including statements in detail of the liabilities incurred by him as such banker and of the securities or property in which the permanent capital and the deposits received by him have been invested." (Banking Law , sec. 165).

Every private banker is required to keep his books and records in such manner as the superintendent may direct (Banking Laws, sec. 165), the superintendent being authorized to "issue an order requiring such * * * banker * * * or the officers thereof or any of them, to open and keep such books or accounts as he may in his discretion, determine and prescribe for the purpose of keeping accurate and convenient records of the transactions and accounts of such * * * banker" whenever it appears to him that any private banker, except those who have had accepted the so-called exemption affidavit, "does not keep its books and accounts in such manner as to enable him readily to ascertain its true condition." (Banking Law , sec. 56).

Penalty for failure to obey order regarding books and accounts.

"Any such banker that refuses or neglects to obey any such order shall be subject to a penalty of one hundred dollars for each day that such refusal or neglect continues." (Banking Law , sec. 165).

Report regarding unclaimed deposits.

There are detailed provisions with reference to reporting to the superintendent of banks regarding unclaimed deposits. This report must be made annually and must state whether or not any unclaimed deposits are being held. Publication of a copy of such report is required to be made in the newspapers and a penalty of $100 per day is imposed for each day such report or the filing of an affidavit of proof of its publication with the superintendent is delayed or withheld. (Banking Law , sec. 166).

Transmission of money.

The laws contain provisions regulating the transmission of money by private bankers. Money received for transmission must be forwarded within five days after being received and a receipt must be given to the person delivering such money for transmission. A penalty is prescribed for a violation of these provisions. (Banking Law , secs. 167 and 168).

Monthly statement required of purchases and sales of property and discounts, loans or other advances.

A written verified statement is required to be filed monthly by private bankers with the superintendent of banks in which must be listed all purchase and sales of property made in connection with their business and all discounts, loans or other advances made by them, including overdrafts and renewals, since the last preceding statement. A description of the collateral if any, to such indebtedness must also be made. Discounts, loans, etc., however, of less than $100 may be omitted from such statement unless they increase by $100 the liability of some individual, partnership, unincorporated association or corporation since the last statement. (Banking Law , sec. 169).

Members of private bankers required to meet monthly.

"The members of any such partnership or unincorporated association of private bankers shall on or before the tenth day of each month meet for the purpose of considering the conditions and affairs of the banking business conducted by them" and of making the statement above referred to and such statement shall be verified by each member * * * except in case of disability or unavoidable absence." (Banking Law , sec. 169).

Reports of condition required.

A private banker who has not executed the so-called exemption affidavit is required to make reports of his condition to the superintendent every three months upon service of notice by him of the day on which such reports must be filed. (Banking Law , sec. 42). Within ten days after service of this notice on him "every such private banker shall make a written report to the superintendent of banks, which report shall be in the form and shall contain the matters prescribed by the superintendent and shall specifically state the items of permanent capital, deposits, specie and cash items, public securities and private securities, real estate and real estate securities and such other items as may be necessary to inform the public as to his financial condition and solvency or which the superintendent may deem proper to include therein, and shall also state the amount of deposits with him, the payment of which in case of insolvency is preferred by law or otherwise over other depositors. It shall state in detail the particular assets in which the permanent capital of such private banker is invested. Every such report shall be verified by the oath of such private banker and of each member of a partnership or an unincorporated association of private bankers to the effect that the report is true and correct in all respects to the best of the knowledge and belief of such banker or bankers and that the usual business of such banker has been transacted at the location stated in the (verified) certificate (hereinbefore referred to) * * *,

"and not elsewhere. In case of the disability or unavoidable absence of a member of a partnership or unincorporated association, such report may be verified by the other members; but the verification shall contain a statement of the reason for the failure of any member to sign and verify such report. Every such report, exclusive of the verification shall within thirty days after it shall have been filed with the superintendent be published by such private banker in one newspaper of the place where such private banker is engaged in business or if no newspaper is published there, in the newspaper published nearest to such place." (Banking Law , sec. 170).

Special reports of condition.

Every such private banker shall also make such other special reports to the superintendent as he may from time to time require in such form and on such dates as may be prescribed by the superintendent, which reports shall if required by the superintendent, be verified in such form as he may prescribe. (Banking Law , sec. 170).

Penalty for failure to make report of condition or include therein required information.

If any private banker fails to make any required report on or before the date designated for the making thereof or fails to include therein any matter required by the superintendent, such private banker shall forfeit the sum of one hundred dollars for every day that such report is delayed or withheld and for every day that it fails to report any such omitted matter, unless the time therefor has been extended by the superintendent. (Banking Laws, sec. 170). An extension of time not exceeding ten days may be granted by the superintendent "for satisfactory cause to him shown" within which such reports may be filed. (Banking Law , sec. 49).

Restrictions as to place of business.

A private banker shall not do business, or be located in the same room with, or in a room connecting with any bank, trust company, savings bank, or national banking association. (Banking Law , sec. 171).

Communications from superintendent must be submitted to members and noted on records.

Each official communication from the superintendent or one of his deputies to any private bank relating to an examination or investigation or containing suggestions or recommendations as to the conduct of the business, shall be submitted by the member receiving it to all the members of such private bank at their next meeting and duly noted on their records. (Banking Law , sec. 172).

NORTH CAROLINA.

Private banks permitted but subject to same laws and supervision as incorporated banks.

The following provisions recognize a private banking business, but indicate that such business is subject to the same provisions of law and supervision as are imposed upon incorporated banks.

Definition of term "bank".

The law provides that "The term 'Bank' when used in this chapter shall be construed to mean any corporation, partnership, firm, or individual receiving, soliciting, or accepting money or its equivalent on deposit as a business: Provided, however, this definition shall not be construed to include building and loan associations, Morris Plan Companies, industrial banks or trust companies not receiving money on deposit." (Consolidated Statutes of North Carolina, sec. 216(a); Banking Laws, 1927, sec. 216(a), p. 3).

Private banks made subject to bank act and supervision of Corporation Commission.

"Every bank, corporation, partnership, firm, company, or individual, now or hereafter transacting the business of banking, or doing a banking business in connection with any other business, under the laws of and within this State, shall be subject to the provisions of this chapter, and shall be under the supervision of the Corporation Commission. The Corporation Commission shall exercise control of and supervision over the banks doing business under this act, and it shall be its duty to execute and enforce through the Chief State Bank Examiner, the State Bank Examiners, and such other agents as are now or may hereafter be created or appointed, all laws which are now or may hereafter be enacted relating to banks as defined in this chapter." (Consolidated Statutes of North Carolina, sec. 222(a); Banking Laws, 1927, sec. 222(a), p. 32).

Promulgation of regulations covering transaction of business.

"For the more complete and thorough enforcement of the provisions of this act, the Corporation Commission is hereby empowered to promulgate such rules, regulations, and instructions, not inconsistent with the provisions of this chapter, as may in its opinion be necessary to carry out the provisions of the laws relating to banks and banking as herein defined, and as may be further necessary to insure such safe and conservative management of the banks under its supervision as will provide adequate protection for the interests of the depositors, creditors, stockholders, and public in the relations with such banks. All banks doing business under the provisions of this chapter

"shall conduct their business in a manner consistent with all laws relating to banks and banking, and all rules, regulations, and instructions that may be promulgated or issued by the Corporation Commission." (Consolidated Statutes of North Carolina, sec. 222(a); Banking Laws, 1927, sec. 222(a), p. 33).

Reports of condition required.

In addition to subjecting private banks to the provisions of law covering incorporated banks, the bank act expressly provides that "Every person, firm, * * *, or partnership doing a banking business, or a banking business in connection with any other business, shall make to the Corporation Commission not less than three reports (of condition) during each year, on forms prescribed by the Corporation Commission. If any person, firm, * * *, or copartnership shall show by said reports, or by the examination of any State bank examiner, that * * * (the) liabilities are equal to the amount of the capital stock * * *, the Corporation Commission shall have authority, and is hereby empowered, to make such rules and regulations for the reduction of said liabilities as it may deem necessary for the protection of the creditors and depositors of such banking institution." (Consolidated Statutes of North Carolina, sec. 222(c); Banking Laws, 1927, sec. 222(c), p. 33).

Advertising banking business and use of banking terms; when private banks may use.

"No person, association, firm, * * *, domiciled within the State of North Carolina, except * * *, persons, associations, or firms reporting to and under the supervision of the Corporation Commission, or under the Supervision of the Insurance Commissioner, shall therein advertise or put forth any sign as bank, banking, banker, or trust company, or use the word bank, banking, banker, or trust as a part of its name and title; * * * * . Any violation of the provisions of this section shall be a misdemeanor, and upon conviction thereof the offender shall be fined in a sum not exceeding five hundred dollars for each offense." (Consolidated Statutes of North Carolina, sec. 224(c); Banking Laws, 1927, sec. 224(c), p. 38).

NORTH DAKOTA.

Private banking business apparently prohibited.

"No person excepting national banking corporations shall transact a banking business nor use the words bank, banking company or banker in any sign, advertisement, letterhead or envelope or in any corporate or firm name, without complying with and organizing under the provisions of this Chapter" relating to the business of banking. (Compiled Laws of 1913, sec. 5177; Banking Laws, 1929, sec. 5177, p.

23). "This chapter" does not contain any provisions authorizing or covering the organization of a private bank, and it would seem that the effect of the above quoted provision is to prohibit a private banking business.

Penalty for violation of above provisions.

"Any person violating the provisions of this section, either individually or as an interested party in any association or corporation, is guilty of a misdemeanor, and on conviction thereof shall be fined not less than five hundred nor more than one thousand dollars, or imprisoned in the county jail not less than ninety days, or both, in the discretion of the court." (Compiled Laws of 1913, sec. 5177; Banking Laws, 1929, sec. 5177, p. 23).

OHIO

Unincorporated banks may not now be established.

"No authority to transact a banking business in this State shall be granted, except to a corporation duly organized and qualified for that purpose. Unincorporated banks now authorized to transact and actually transacting a banking business may continue such banking business in the city, village, or township in which they are now located so long as they comply with the provisions of this act." (General Code, sec. 710-76; Banking Laws, 1928, sec. 710-76, p. 29).

"Unincorporated bank" defined; scope of term "Board of directors."

"The following definitions shall be applied to the terms used in this act: * * * The term 'unincorporated bank' shall include every unincorporated person, firm or association transacting banking business in this state; and the term 'board of directors' shall include the owner or owners of such banks." (General Code, sec. 710-1; Banking Laws, 1928, sec. 710-1, p. 5).

"Banking business" defined; word "bank", unless otherwise stated, includes unincorporated banks.

"The term 'bank' shall include any person, firm, association, or corporation soliciting, receiving or accepting money, or its equivalent, on deposit as a business, whether such deposit is made subject to check or is evidenced by a certificate of deposit, a pass-book, a note, a receipt, or other writing, and unless the context otherwise requires as used in this act includes * * * * unincorporated banks; * * *". (General Code, sec. 710-2; Banking Laws, 1928, sec. 710-2, p. 5).

From the above provisions, it appears that unincorporated banks transacting a banking business at the time the act containing these provisions became law, are made subject to the provisions covering incorporated banks wherever this may appropriately be done. In addition, such unincorporated banks are specifically made subject to the following provisions.

Capital required; segregation necessary, purpose of.

Every unincorporated bank in cities or villages of two thousand or less population is required to have a paid-in capital of not less than $10,000; in cities or villages of more than two thousand to ten thousand population, the paid-in capital must be $25,000; and in cities of over ten thousand population, the paid-in capital must not be less than $50,000. This capital must remain in the possession of the bank as its property, and is to "be used for its sole purposes and for the security of its creditors". The capital shall at all times be segregated from any other property of the owners of the bank and shall be kept and maintained unimpaired for the security of the creditors of such bank". All unincorporated banks are required to comply with these provisions within one year. (General Code, sec. 710-78; Banking Laws, 1928, sec. 710-78, p. 30).

Advertising capital; restriction upon.

No unincorporated bank "shall advertise by newspaper, letterhead, or in any other way, a larger capital than has been actually paid in". (General Code, sec. 710-81; Banking Laws, sec. 710-81, p. 31).

Statement completely describing bank must be filed annually with superintendent of banks.

Every unincorporated bank, on or before January 31st of each year shall, under oath, file with the superintendent of banks, a full and complete detailed statement containing the following:

1. The name of the bank.

2. A copy of the articles of co-partnership or agreement under which the business of such bank is being conducted. One of the owners of such bank is required at all times to be a resident of the State of Ohio.

3. The location of the bank.

4. The amount of the permanent actually paid in capital of the bank which is in its possession as its property and for its sole purposes.

5. A statement of the responsibility and net worth of the individual members of the bank.

6. The names of the officers, agents or employees in active charge of the bank if such names are not given in the articles of co-partnership or agreement. (Act approved April 18, 1929, sec. 1, p. 4; General Code, sec. 710-77).

Names under which property must be held.

All real or personal property owned by an unincorporated bank must be held in the designated name of the bank or in the name of an individual as trustee therefor, and not in the name of the owners of the bank. (General Code, sec. 710-79; Banking Laws, 1928, sec. 710-79, p. 30).

Assets, when exempt from attachment or execution.

All of the assets of an unincorporated bank are exempt from attachment or execution by any creditor of the owners until all of the liabilities of the bank have been paid in full. (General Code, sec. 710-79; Banking Laws, 1928, sec. 710-79, p. 30).

Restriction against owners using funds for private use.

"No person, firm or association owning or conducting an unincorporated bank shall use any of the funds of such bank for his or their private business; except as a borrower in due course of business." (General Code, sec. 710-79; Banking Laws, 1928, sec. 710-79, p. 30).

Depositors have first lien on assets.

"The depositors in any unincorporated bank shall have first lien on the assets of such bank, in case it is wound up, to the amount of their several deposits, and for any balance remaining unpaid, such depositors shall share in the general assets of the owner or owners alike with general creditors." (General Code, sec. 710-80; Banking Laws, 1928, sec. 710-80, p. 30).

List of owners must be posted and changes must be reported to the superintendent of banks.

A list of the owners of any unincorporated bank, and a statement to the effect that the bank is unincorporated must be posted in the room in which the bank transacts its business. Any subsequent changes must be shown in the list and a report of all such changes must be made to the superintendent of banks. (General Code, sec. 710-81; Banking Laws, 1928, sec. 710-81, pp. 30 and 31).

Advertising matter must contain word "unincorporated".

Every unincorporated bank must have printed on all its advertising matter and business stationery, the word "unincorporated" immediately following the name of the firm or business title. (General Code, sec. 710-82; Banking Laws, 1928, sec. 710-82, p. 31).

Reports of unincorporated banks, publication required.

All reports of unincorporated banks are required to be kept on file in the office of the superintendent of banks, and are open to the inspection of all persons, at the discretion of the superintendent. These reports must be published in the newspaper by the banks, and proof of such publication must be furnished to the superintendent. (General Code, sec. 710-83; Banking Laws, 1928, sec. 710-83, p. 31).

Unincorporated banks may be designated as depositories of State funds.

Unincorporated banks are permitted to bid upon and be designated depositories for State funds upon furnishing such surety or sureties as is prescribed by law. (General Code, sec. 710-84; Banking Laws, 1928, sec. 710-84, p. 31).

Loans to any one person, corporation, etc.

The laws contain provisions prescribing the amount which an unincorporated bank may loan to any one person, company, corporation or firm. (Act approved April 18, 1929, sec. 1, (710-122); General Code, secs. 710-122 and 710-123; Banking Laws, 1928, secs. 710-122 and 710-123, p. 49).

Voluntary liquidation.

The laws also permit an unincorporated bank to go into voluntary liquidation and contain detailed provisions with reference to the procedure to be followed by the bank and the powers and duties of the superintendent of banks before and during the actual liquidation of the bank. (General Code, sec. 710-85; Banking Laws, 1928, sec. 710-85; pp. 31 and 32).

OKLAHOMA.

Banking business may only be transacted by corporations "authorized by the laws of the State of Oklahoma or of the United States".

The laws of this State provide for the incorporation of a "banking corporation" and authorize such corporation to engage in the business of banking. (Comp. Oklahoma Stats., 1921, sec. 4114; Banking Laws, 1926, sec. 1, p. 10). The incorporation of a trust company is also provided for (Laws of 1925, ch. 56, amending sec. 4190, Comp. Oklahoma Stats., 1921; Banking Laws, 1926, sec. 1, p. 61); and such company is authorized to

engage in the banking business. (Laws of 1925, ch. 56, amending sec. 4216, Comp. Oklahoma Stats., 1921; Banking Laws, 1926, sec. 5, p. 74). Unless authority to engage in the banking business is obtained under these provisions, the transaction of such business by any individual or corporation is prohibited, the laws in this connection providing that "It shall be unlawful for any individual, firm, or association, or corporation to receive money upon deposit or transact a banking business except as authorized by the laws of the State of Oklahoma, or of the United States, or to use or advertise, in connection with any business other than the banking business, conducted under the banking laws of this State, the words: Banker, bankers, investment banker, or any other word or term calculated to deceive the public into belief that such person, firm, association or corporation, is engaged in the banking business." (Comp. Oklahoma Stats., 1921, sec. 4129; Banking Laws, 1926, sec. 44, p. 31). (See also Levy v. Reed, 1918, 690 Okla. 180, 170 Pac. 497).

Penalty for violation of above provision.

"Any person, firm, association or corporation violating any of the provisions of this section, either individually or as an interested party, in any firm, association or corporation shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined in a sum not less than three hundred dollars ($300.00) nor more than one thousand ($1,000.00) dollars, or by imprisonment in the county jail not less than thirty days nor more than one year, or by both such fine and imprisonment, *** ". (Comp. Oklahoma Stats., 1921, sec. 4129; Banking Laws, 1926, sec. 44, p. 31).

Enforcement of provisions and prevention of further violations.

" *** it is hereby made the duty of the Attorney General to enforce the provisions of this section; and in order to further prevent the violation of the section, any court of competent jurisdiction in this State is hereby authorized and empowered to grant an injunction and to appoint a receiver to take charge of the business and assets of any person, firm, association or corporation found guilty of violating the provisions of this section, and to make all necessary and proper orders to wind up such business and prevent a violation of this section." (Comp. Oklahoma Stats., 1921, sec. 4129; Banking Laws, 1926, sec. 44, p. 31).

OREGON.

Banking business may only be transacted by corporations.

"It shall be unlawful for any corporation, partnership, firm or individual to engage in or transact a banking or trust business within this state, except by means of a corporation duly organized

"for such purpose." (Laws of 1925, ch. 207, sec. 2; Banking Laws 1925, including amendments of 1929, sec. 2, p. 4). "No person, firm, company, association, copartnership or corporation, either domestic or foreign, except national banks, not subject to the supervision of the superintendent of banks and not required by the provisions of this (bank) act to report to him, and which has not received a certificate to do a banking or trust business from the superintendent of banks, shall *** solicit or receive deposits or transact business in the way or manner of a bank, savings bank or trust company, or in such a way or manner as to lead the public to believe that its business is that of a bank, savings bank or trust company." There are also prohibitions against the use of the word bank, banker, etc., or any other form of advertising indicating that the business carried on is that of a bank. "Every person, firm, company, association, copartnership or corporation doing any of the things or transacting any of the business *** (referred to) must transact such business according to the provisions of the bank act.***" (Laws of 1925, ch. 207, sec. 54; Banking Laws, 1925, including amendments of 1929, sec. 54, pp. 19 and 20).

Violation of provisions; power of superintendent of banks; penalty.

The superintendent of banks has authority to examine the accounts, books and papers of every person, firm, association or copartnership in order to ascertain whether such person, firm, association or copartnership has violated or is violating any provision of the section last above referred to. Any person, firm, association or copartnership violating any provision of this section must pay a penalty of $100 a day for every day during which such violation continues. Upon an action brought by the superintendent of banks an injunction may be issued restraining any such person, firm, copartnership or association from further using such words or from further transacting business in such a manner as to lead the public to believe that the business is that of a bank, savings bank or trust company, and the court issuing the injunction may make such other order as may be proper. (Laws of 1925, ch. 207, sec. 54; Banking Laws, 1925, including amendments of 1929, sec. 54, pp. 19 and 20).

PENNSYLVANIA.

License to engage in business of private banking required.

Except as hereinafter provided, "no individual, partnership, or unincorporated association shall hereafter engage, directly or indirectly, in the business of receiving deposits of money for safekeeping or for the purpose of transmission to another, or for any other purpose, without having first obtained from a board, consisting of the State Treasurer, Secretary of the Commonwealth, the Secretary of Banking, - hereinafter referred to as the 'Board', - a license to engage in such business." (Act of June 19, 1911, P. L. 1060, sec. 1,

as amended by Act of April 5, 1927, P. L. 106, No. 73, sec. 1, and Act of April 26, 1929, P. L. 813, sec. 1; Purdon's Penna. Stats., Title 7, sec. 711, p. 175).

The Board to License Private Bankers has been reorganized and continued by the provisions of the Pennsylvania Administrative Code of April 9th, 1929, P. L. 177. Section 202 of Article II of that Code provides that "The following boards, commissions, and offices are hereby placed and made departmental administrative boards, commissions, or offices, as the case may be, in the respective administrative departments mentioned in the preceding section, as follows: . . . . . In the Department of Banking, Board to License Private Bankers."

Section 428 of Article IV of the Administrative Code provides that "The Board to License Private Bankers shall consist of the Secretary of Banking, who shall be chairman thereof, the Secretary of the Commonwealth, and the State Treasurer."

Section 1604 of Article XVI of the Administrative Code provides with respect to the powers and duties of the Board to License Private Bankers that "Subject to any inconsistent provisions in this act contained, the Board to License Private Bankers shall continue to exercise the powers and perform the duties vested in and imposed upon the said board by the act, approved the nineteenth day of June, one thousand nine hundred and eleven (Pamphlet Laws, one thousand and sixty), entitled 'An Act to provide for licensing and regulating private banking in the Commonwealth of Pennsylvania, and providing penalties for the violation thereof,' its amendments and supplements . . . . " .

Statement required of applicant.

The applicant for a private banking license must file a written verified statement with the Secretary of Banking showing the amount of the assets and liabilities of the applicant and designating the place where the applicant proposes to engage in business, with the names and addresses of all partners or members of the private bank. It must also be shown that the applicant is a citizen of Pennsylvania; or, if the applicant is a partnership or unincorporated association, that a majority of the members having a controlling interest in the business are citizens of Pennsylvania. (Act of June 19, 1911, P. L. 1060, sec. 1, as amended by Act of April 5, 1927, P. L. 106, No. 73, sec. 1, and Act of April 26, 1929, P. L. 813, sec. 1; Purdon's Penna. Stats., Title 7, sec. 711, p. 175).

Bond must be filed; purpose and amount of.

A bond executed by the applicant and a surety or sureties approved by the board, must also be filed with the Secretary of

Banking to cover the faithful holding and repayment of all moneys received on deposit and the faithful transmission of any money which is received for transmission to another. The bond must also, in the case of insolvency or bankruptcy, cover the payment of the amounts recoverable to the assignee, receiver or trustee of the applicant for the benefit of the person making a deposit or delivering money for transmission to another. The amount of the bond is to be fixed by the board but is not to be less than $10,000 nor more than $50,000. (Act of June 19, 1911, P. L. 1060, sec. 1, as amended by Act of April 5, 1927, P. L. 106, No. 73, sec. 1, and Act of April 26, 1929, P. L. 813, sec. 1; Purdon's Penna. Stats., Title 7, sec. 712, pp. 177 and 178).

Money and securities may be deposited in lieu of bond.

Money and securities equal to the amount of the penalty fixed in the bond may be deposited by the applicant with the Secretary of Banking in lieu of such bond. The securities may consist of bonds of the United States, or bonds of the State of Pennsylvania or any municipality thereof, or other securities approved by the board. (Act of June 19, 1911, P. L. 1060, sec. 1, as amended by Act of April 5, 1927, P. L. 106, No. 73, sec. 1, and Act of April 26, 1929, P. L. 813, sec. 1; Purdon's Penna. Stats., Title 7, sec. 712, p. 178.).

Examination of applicant's standing; publication of application.

Upon receiving an application for a private banking license, "the Secretary of Banking shall cause to be made an examination of the financial standing and moral character of the applicant, as to whether the statements contained in the application are true" and this application must be advertised in the newspaper by the Secretary of Banking at the expense of the applicant. (Act of June 19, 1911, P. L. 1060, sec. 1, as amended by Act of April 5, 1927, P. L. 106, No. 73, sec. 1, and Act of April 26, 1929, P. L. 813, sec. 1; Purdon's Penna. Stats., Title 7, sec. 713, p. 179).

License issued in discretion of board; fee; when location may be changed.

After advertisement of the application, "the board may, in its discretion, approve or disapprove the application". If approval is granted, the bond, or any money or securities deposited in lieu thereof, shall be accepted and held by the Secretary of Banking for the purpose for which required, and he shall issue a license authorizing the applicant to engage in a private banking business at the place specified in the license certificate. A fee of fifty dollars is required for such a license, which may not be transferred or assigned.

The written approval of the board is required for the transaction of business at any place other than that specified in the license certificate. (Act of June 19, 1911, P. L. 1060, sec. 1, as amended by Act of April 5, 1927, P. L. 106, No. 73, sec. 1, and Act of April 26, 1929, P. L. 813, sec. 1; Purdon's Penna. Stats., Title 7, sec. 713, p. 179).

License must be posted; duplicate license may be issued.

The license must be posted in the place of business of the licensee and it is made unlawful to post such license in a place other than that designated as the licensee's place of business. Provision is also made for the issuance of a duplicate license in case the original is lost or destroyed. (Act of June 19, 1911, P. L. 1060, sec. 1, as amended by Act of April 5, 1927, P. L. 106, No. 73, sec. 1, and Act of April 26, 1929, P. L. 813, sec. 1; Purdon's Penna. Stats., Title 7, sec. 714, p. 180).

Bonds and money or securities constitute trust funds for depositors.

The money and securities deposited with the Secretary of Banking and money which may be paid on any bond in case of default, constitutes a trust fund for the benefit of depositors in the private bank and of such persons who have delivered money to such bank for transmission to another. Such beneficiaries are entitled to an absolute preference as to such moneys or securities over all general creditors of the bank. In the event of the insolvency or bankruptcy of the bank, such moneys and securities, on the order or judgment of a court of competent jurisdiction, must be delivered by the Secretary of Banking to the assignee, receiver or trustee of the bank designated in such order or judgment. (Act of June 19, 1911, P. L. 1060, sec. 1, as amended by Act of April 5, 1927, P. L. 106, No. 73, sec. 1, and Act of April 26, 1929, P. L. 813, sec. 1; Purdon's Penna. Stats., Title 7, sec. 715, p. 180).

Distribution of assets in case of insolvency.

In case of the insolvency of any private banker, the distribution of the assets, other than the proceeds from the bond or securities deposited, shall be made and preferred in the following order:

1. To the payment of all depositors of the private banker. Bona fide holders of certified checks, or of certificates of deposit, or of checks or drafts of the private banker given in exchange for or in payment of checks or drafts of depositors drawn on the private banker, not exceeding the balance to the credit of the depositor, are also treated as depositors within the meaning of this section.

2. To the payment and discharge of all the remaining liabilities of the private banker.

3. If there is anything remaining, it is distributed to the individual or the partners or members of the private banker according to their legal rights. (Act of June 19, 1911, P. L. 1060, sec. 1, as amended by Act of April 5, 1927, P. L. 106, No. 73, sec. 1, and Act of April 26, 1929, P. L. 813, sec. 1; Purdon's Penna. Stats., Title 7, sec. 716, p. 181).

List of licenses granted must be published annually; interest on deposits in lieu of bonds; custody of such deposits.

On the first day of January, the Secretary of Banking must print annually a list of all licenses granted and unrevoked. He must also pay over to each licensee all of the interest received by him upon any money or securities deposited in lieu of the bond. All money or securities must be turned into the State Treasury and receipted by the State Treasurer to the Secretary of Banking and the depositor, and is subject to withdrawal only upon the warrant of the Secretary of Banking. All interest coupons on any securities deposited shall be surrendered when due to the owners upon their request. (Act of June 19, 1911, P. L. 1060, sec. 1, as amended by Act of April 5, 1927, P. L. 106, No. 73, sec. 1, and Act of April 26, 1929, P. L. 813, sec. 1; Purdon's Penna. Stats., Title 7, sec. 717, p. 182).

Satisfaction or release of mortgage deposited as security in lieu of bond.

The laws contain provisions for the satisfaction or release of any mortgage, judgment or lien which may be accepted in lieu of a bond. (Act of May 23, 1913, P. L. 334, sec. 1; Purdon's Penna. Stats., Title 7, sec. 718, p. 182).

Character of books which must be kept.

Each private bank must keep such books of account as are approved by the Secretary of Banking. Such books must show full and

complete records of all business transacted and a full statement of all assets and liabilities. (Act of June 19, 1911, P. L. 1060, sec. 2; Purdon's Penna. Stats., Title 7, sec. 719, p. 183).

Statement of assets and liabilities, and publication of, required.

Each private bank is required at least two times each year to file with the secretary of banking a written statement, under oath and in such form as the secretary may prescribe, of the amount of its assets and liabilities. This statement must be made as of such days as the secretary may designate by a written notice mailed to the private bank and within ten days after the date of such notice. A copy of the statement must also be published in the newspapers. (Act of June 19, 1911, P. L. 1060, sec. 2; Purdon's Penna. Stats., Title 7, sec. 719, p. 183).

Revocation of license; notice of discontinuance of business.

The license may be revoked by the board for cause shown, and if it is revoked or surrendered, no refund of the license fee will be made. In case the license is revoked, it must be surrendered within twenty-four hours after written notice of such revocation has been given to the holder, and the bond or money and securities received from the private bank "shall continue to be held by the Commissioner (Secretary) of Banking until otherwise directed by the order or judgment of a court of competent jurisdiction". In case of a discontinuance of business, "notice thereof must previously have been published once a week during the thirty days in one newspaper of general circulation, and the legal periodical, if any, published in the city or county where such business has been conducted, or nearest adjacent county". (Act of June 19, 1911, P. L. 1060, sec. 2; Purdon's Penna. Stats., Title 7, sec. 719, p. 183).

Violations; penalties.

Any person, partnership, or unincorporated association transacting a banking business without a license, or who carries on such business after the license has been revoked, or who, without such license, uses the word "banking" or any equivalent term in advertising the business, or who fails to display the license certificate, or who fails to keep books and make reports as required, or who advertises or publishes in any manner, "either orally or in writing, any statement intended to convey or actually conveying the idea or impression that such licensee is in any way under the supervision of this State, or of any officer thereof, or that this State, or any officer thereof, has passed in any way whatsoever upon the responsibility, solvency, or qualifications of such licensee to engage in such business; or that this State, or any officer thereof, has examined any accounts of said licensee or has in any way certified that such licensee is in any way a fit person to carry on such business, shall be guilty of a misdemeanor, and punished as hereinafter provided." (Act of June 19, 1911, P. L. 1060, sec. 3; Purdon's

Penna. Stats., Title 7, sec. 720, p. 183).

False swearing as to certain facts.

Any person who, in any application for a private banking license or in any report, shall swear falsely as to the amount of the assets and liabilities of a licensee, or in any other particular or in any affidavit shall swear falsely as to any fact therein stated, shall be guilty of perjury. (Act of June 19, 1911, P. L. 1060, sec. 4; Purdon's Penna. Stats., Title 7, sec. 721, p. 184).

Failure to make or publish reports; penalty.

Any private bank which fails to make any required report or to publish any reports as required within the specified time, must forfeit the sum of twenty dollars for every day that such report or its publication is delayed or withheld. (Act of June 19, 1911, P. L. 1060, sec. 5; Purdon's Penna. Stats., Title 7, sec.722, p. 184).

Recovery of money deposited for transmission; burden of proof in suit.

There are also provisions fixing the burden of proof in an action against a licensee to recover money deposited with such licensee for transmission. (Act of June 19, 1911, P. L. 1060, sec. 6; Purdon's Penna. Stats., Title 7, sec. 723, p. 185).

Forwarding of money for foreign transmission.

Money received for transmission to a foreign country by any licensee must be forwarded within five days after its receipt and every person who fails to so forward within the specified time is guilty of a misdemeanor and punishable as hereinafter provided. (Act of June 19, 1911, P. L. 1060, sec. 7; Purdon's Penna. Stats., Title 7, sec. 724, p. 185).

Applicability of foregoing provisions.

The above provisions became effective on December 1, 1911, and they applied "to all persons now or hereafter engaging in said (private banking) business" except as provided under the following caption entitled "Exceptions from foregoing provisions". (Act of June 19, 1911, P. L. 1060, sec. 13; Purdon's Penna. Stats., Title 7, footnote to sec. 711, p. 176).

Exceptions from foregoing provisions.

The foregoing provisions shall not apply:

(1) To any corporation authorized to do business under the Pennsylvania banking laws, to any corporation authorized to receive deposits under the laws of Pennsylvania, nor to any national bank.

(2) To any hotel keeper who receives money for safekeeping from a guest.

(3) To any express, steamship or telegraph company receiving money for transmission.

(4) To any individual, partnership, or unincorporated association who would otherwise be required to comply with the foregoing provisions, "who shall file with the Commissioner (Secretary) of Banking a bond, in the sum of one hundred thousand dollars, approved by the board as to form and sufficiency for the purpose, and conditioned as *** (provided above), where the business is conducted in a city of the first or second class; and if conducted in a city of the first class, and if conducted elsewhere in the State, such bond shall be in the sum of fifty thousand dollars; or in lieu thereof, money or securities approved by the Commissioner (Secretary) of Banking, of the same amounts: Provided, however, That the Secretary of Banking shall examine the books, papers, and affairs of such individual, partnership, or unincorporated association, and if satisfied from the examination that the business of such individual, partnership, or unincorporated association is conducted in an unauthorized or unsafe manner or is in an unsafe or unsound condition to continue business, he may, after hearing had upon due notice given with the approval and consent of the Attorney General, take possession of the business and property of such individual, partnership, or unincorporated association, and shall then proceed in the same manner as provided by law he shall proceed after having taken possession of the business and property of any *** person subject to the supervision of the Banking Department. If in the opinion of the Secretary of Banking the business of any such individual, partnership, or unincorporated association is in such an unsafe and unsound condition that immediate action is necessary, the Secretary may forthwith, without such hearing and consent of the Attorney General, take possession of the business and property of such individual, partnership, or unincorporated association; ***"

(5) To any individual, partnership, or unincorporated association, licensed under the laws of Pennsylvania to do a brokerage business, holding a membership in a lawfully incorporated brokerage exchange, and doing only such banking as is incidental to such brokerage business. The books or records showing the deposit or account of any depositor with any individual, partnership, or unincorporated association filing the bond, money, or securities referred to above, are not subject to any visitorial power, inspection, or examination by the Commissioner (Secretary) of Banking, except as hereinbefore provided; nor to examination or inspection by, or production in, any department or agency of the Government, State or municipal; nor to inspection, examination, or production in any court in any judicial proceeding except in cases of insolvency or bankruptcy, or a judicial proceeding or investigation involving the rights and liabilities of a creditor or depositor.

(6) To any person, firm, partnership, or unincorporated association engaged in business as private bankers "continuously and in the same locality" for a period of seven years prior to June 19, 1911.

(Act of June 19, 1911, P. L. 1060, sec. 8, as amended by Acts of May 2, 1925, P. L. 502, sec. 1, and March 17, 1927, P. L. 39, sec. 1; Purdon's Penna. Stats., Title 7, sec. 725, pp. 185-187).

Other violations.

Any private banker who violates any of the foregoing provisions, "the violation of which has not hereinbefore been made a misdemeanor or a felony, shall be guilty of a misdemeanor, and punished as hereinafter provided". (Act of June 19, 1911, P. L. 1060, sec. 9; Purdon's Penna. Stats., Title 7, sec. 726, p. 187.).

Penalty for violations.

"Every person found guilty of a misdemeanor under any of the *** (foregoing provisions) shall be sentenced to an imprisonment not exceeding two years, or be fined in an amount not exceeding one thousand dollars, or both or either, at the discretion of the court." (Act of June 19, 1911, P. L. 1060, sec. 10; Purdon's Penna. Stats., Title 7, sec. 727, p. 187).

Definition of "person".

The word "person" as used below "means an individual, a partnership, or an unincorporated association". (Act of June 15, 1923, P. L. 809, sec. 2, as amended by Act of May 5, 1927, P. L. 762, sec. 1; Purdon's Penna. Stats., Title 7, sec. 2, p. 13).

Department of Banking; scope of supervision; powers; duties.

"There shall continue to be a separate and distinct department, known as the Department of Banking, charged with the supervision of all the *** persons hereinafter described, and with the duty of taking care that the laws of this Commonwealth in relation thereto shall be faithfully executed, and that the greatest safety to the depositors therein or therewith and to other interested persons shall be afforded. *** The said supervision, duties, and powers shall *** extend and apply to all private or unincorporated banks, except such as are or shall be exempted by law, and to all such individuals, partnerships, and unincorporated associations, as are or shall be by law made subject to the supervision of said department, ***." (Act of June 15, 1923, P. L. 809, sec. 4; Purdon's Penna. Stats., Title 7, sec. 4, pp. 14 and 15).

Assessment against persons to pay expenses of banking department; failure or refusal to pay.

All the expenses of the department of banking including the cost of regular examinations "shall be charged to and paid by the *** persons subject to the supervision of the department, in equitable proportions, at such times and in such manner, as the secretary shall by general rule or regulation annually prescribe: * * * " For a failure or refusal, after thirty days written notice, to pay any sum lawfully assessed or charged by the secretary, the

secretary "shall call upon the Department of Justice to bring an action at law to recover the same". (Act of June 15, 1923, P. L. 809, sec. 9, as amended by Acts of April 13, 1927, P. L. 182, sec. 1, and April 25, 1929, P. L. 716, sec. 1; Purdon's Penna. Stats., Title 7, sec. 9(b), pp. 17 and 18).

Examination of.

"Every *** person included within the supervision of the department ***, together with all the property, assets, and resources of such *** person, shall be subject to inspection and examination" by the secretary, his deputies, or any qualified examiners of the department of banking. (Act of June 15, 1923, P. L. 809, sec. 13; Purdon's Penna. Stats., Title 7, sec. 13, p. 21).

Number and character of examinations; powers of examiner, reports of.

It is the duty of the secretary at least once each year, to examine the books, papers, and affairs of every person subject to the supervision of the department of banking. The examiner is empowered to make a thorough examination into all the business and affairs of the person and of all property, assets and resources wherever situated. The examiner also has power to examine under oath or otherwise, any of the officers, agents, employees or members of such person in possession of any assets or having knowledge of any assets of the person. The examiner is required to make a full and detailed report of the condition of the person who was examined, or such special report as may be directed by the secretary. (Act of June 15, 1923, P. L. 809, sec. 14, as amended by Act of May 5, 1927, P. L. 762, sec. 5; Purdon's Penna. Stats., Title 7, sec. 14 (a), p. 21).

Special examinations; cost of.

"The secretary may also at any time, make such special investigations or examinations as, in his opinion, the exigencies of any case may require"; and his power and duties and the powers and duties of any examiner assigned by him to conduct such special examination are the same as in the case of regular examinations. (Act of June 15, 1923, P. L. 809, sec. 14, as amended by Act of May 5, 1927, P. L. 762, sec. 5; Purdon's Penna Stats., Title 7, sec. 14 (a), p. 21). "The expenses incurred in connection with any special examination or investigation of any * * * person * * * shall be charged to and paid by such * * * person." (Act of June 15, 1923, P. L. 809, sec. 9, as amended by Acts of April 13, 1927, P. L. 182, sec. 1, and April 25, 1929, P. L. 716, sec. 1; Purdon's Penna. Stats., Title 7, sec. 9 (b), p. 18).

False testimony of officer, employee, etc. to examiner; penalty.

The wilful false swearing in any inquiry instituted by an examiner during an examination by any officer, agent, employee or member of any person "shall be perjury, and subject, upon conviction thereof, to the same punishment as is or may be provided by law for the punishment of perjury. Upon failure of any of the individuals, aforesaid, to make answer to any such inquiry, the Attorney General, upon request of the secretary, shall make information thereof to the court, whereupon said court, after hearing, shall make such order as the occasion requires." (Act of June 15, 1923, P. L. 809, sec. 14, as amended by Act of May 5, 1927, P. L. 762, sec. 5; Purdon's Penna. Stats., Title 7, sec. 14 (b), p. 22).

Reports of condition; number and character of; publication required.

Every person subject to the supervision of the department of banking must make to the secretary not less than two nor more than five verified reports of condition during each year, the number, form and manner of such reports to be prescribed by the secretary. Each report must exhibit in detail and under appropriate heads the resources and liabilities of the person at the close of business on any past day specified by the secretary, and must be sent to him within five days or within such further time as he may allow, after the receipt of the secretary's request to make such report. Abstract summaries of two of the reports, designated by the secretary, in each year must be published in a newspaper and proof of such publication must be furnished to the secretary. (Act of June 15, 1923, P. L. 809, sec. 15; Purdon's Penna. Stats., Title 7, sec. 15, pp. 22 and 23).

Special reports of condition.

"The secretary shall have power to call for a special report from any * * * person under the supervision of the department, * * * whenever, in his judgment, the same may be necessary to a full and complete knowledge of * * * his condition." (Act of June 15, 1923, P. L. 809, sec. 15; Purdon's Penna. Stats., Title 7, sec. 15, p. 23).

Reports and publications required above to be in lieu of all similar reports and publications heretofore required.

The laws of this State provide that "The reports and publications provided for in * * * (the above provisions relating to regular and special reports of condition) shall be in lieu of all reports and of all publications for similar purposes heretofore required by law to be made." (Act of June 15, 1923, P. L. 809, sec. 15; Purdon's Penna. Stats., Title 7, sec. 15, p. 23). This provision apparently has the effect of repealing that portion of the Act of June 11, 1911 (P. L. 1060, sec. 2; Purdon's Penna. Stats., Title 7, sec. 719, p.

183), hereinbefore referred to under the caption titled "Statement of assets and liabilities, and publication of, required", which requires private banks to file in the office of the Secretary of Banking a sworn statement of its assets and liabilities and to publish a copy of such statement in the newspapers.

Failure to make or publish reports; penalty.

A penalty is prescribed in case a person fails to make and transmit and to publish any report of condition referred to above. (Act of June 15, 1923, P. L. 809, sec. 15; Purdon's Penna. Stats., Title 7, sec. 15 (b), p. 23).

Report of gross receipts to Department of Revenue and payment of tax thereon.

The laws of this State also require a private banker on or before the first Monday of December of each year, to make a written sworn statement to the Department of Revenue in which must be set forth the full amount of "his gross receipts from commissions, discounts, abatements, allowances, and all other receipts" arising from his business during the year ending with the 30th day of November preceding the date of such return, "and shall forthwith pay into the State Treasury, through the Department of Revenue, one per centum upon the aggregate amount of such gross receipts * * * ". (Act of May 16, 1861, P. L. 708, sec. 1, as amended by Acts of June 27, 1895, P. L. 396, sec. 1, June 13, 1901, P. L. 559, No. 266, and April 25, 1929, P. L. 679, sec. 1; Act of April 9, 1929, P. L. 343, Art VII, sec. 719 a). "All * * private bankers shall be required to pay license as heretofore, in addition to the amounts which they shall be required to pay under the provisions of this Act." (Act of May 16, 1861, P. L. 708, sec. 4).

Additional report to Department of Revenue upon commencing business.

"Every private banker, hereafter commencing business in this Commonwealth, whether the business be conducted by an individual, or more than one person in partnership, shall, within sixty days after commencing such business, make a report to the Department of Revenue, setting forth the name or names of the persons engaging in such business, the name under which the business is being conducted, its location, and the amount of capital invested therein." (Act of April 9, 1929, P. L. 343, Art. VII, sec. 719 b).

Penalty for failure to make above reports to Department of Revenue.

Any private banker who neglects or refuses to make the return of gross receipts or the report referred to above to the Department of Revenue, "shall, for every such neglect or refusal, be subject to a penalty of one thousand dollars", which shall be collected by

the Department of Revenue. (Act of April 9, 1929, P. L. 343, Art. XVII, sec. 1707).

Branches; general establishment of prohibited;

The laws of this State provide that "no individual, partnership, or unincorporated association carrying on a banking business shall establish, maintain, or operate, either directly or indirectly, any branch bank, branch office, agency, sub-office, sub-agency, or branch place of business, within the Commonwealth of Pennsylvania, for the transaction of any part of * * * , his, or their business, but all of the business of such * * *, individuals, partnerships, and unincorporated associations shall be carried on solely and exclusively at * * * his, or their principal place of business." (Act of April 27, 1927, P. L. 400, sec. 1; Purdon's Penna. Stats., Title 7, sec. 302, p. 100).

Exceptions; establishment permitted within corporate limits of places where national banks were operating branches on March 1, 1927.

"This act shall not apply to * * * any individual, partnership, or unincorporated association carrying on a banking business which has * * * , his, or their principal place of business in a city, borough, or township within the Commonwealth of Pennsylvania, in which one or more national banking associations, * * * was, on March 1, 1927, operating one or more branch banks, branch offices, agencies, suboffices, subagencies, or branch places of business, for the transaction of any part of its business; and any such * * *, individuals, partnerships, and unincorporated associations may hereafter establish, subject to the approval of the Secretary of Banking, and thereafter maintain and operate branch banks, branch offices, agencies, suboffices, subagencies, and branch places of business for the transaction of any part of * * *, his, or their business, but only within the corporate limits of the city, borough, or township in which its principal office is located and in which such national banking association was, on March 1, 1927, operating one or more branch banks, branch offices, agencies, suboffices, subagencies, or branch places of business. The right to establish and maintain branch banks, branch offices, agencies, suboffices, subagencies, or branch places of business, under the provisions of this section, shall be limited to the territory included within the corporate limits on March 1, 1927, of the respective cities, boroughs, or townships in which such national banking associations were on that date operating one or more branch banks, branch offices, agencies, suboffices, subagencies, or branch places of business as aforesaid; and such right shall not extend to additional territory which may, after March 1, 1927, be added to such cities, boroughs, or townships, by annexation, consolidation with one or more municipal corporations or otherwise, nor shall it extend to other portions or divisions of municipal corporations to which such cities, boroughs, or townships may be annexed, or with which they may be consolidated after that date; the intention being to limit to the respective corporate limits of such cities, boroughs, or townships as

"they existed on March 1, 1937, the right to establish and maintain the branch banks, branch offices, agencies, suboffices, subagencies, and branch places of business authorized in this section." (Act of April 27, 1927, P. L. 400, sec. 3; Purdon's Penna. Stats., Title 7, sec. 304, p. 102).

Other exceptions are that the act does not apply to branches established or for which locations had been secured prior to March 1, 1927, or to branches resulting from consolidations effective prior to April 1, 1927; "and such * * * individuals, partnerships, and unincorporated associations shall have the right to relocate the same within the corporate limits of the city, borough, or township in which the principal place of business is located at the time of such relocation, subject to the approval of the Secretary of Banking." (Act of April 27, 1927, P. L. 400, sec. 2; Purdon's Penna. Stats., Title 7, sec. 303, p. 101).

Surety on bonds.

An "unincorporated bank" is prohibited from acting generally as "surety on any bonds". (Act of May 16, 1923, P. L. 248, secs. 1-3; Purdon's Penna. Stats., Title 7, secs. 281-283, pp. 98 and 99).

Preservation of records.

Every "private banker" must "preserve, in such form and manner that they may be readily produced on proper demand, all * * * his * * * records of original or final entry, including cards used under the card system, and deposit slips or tickets, for a period of seven years from the date of making the last entry on the same." (Act of April 4, 1929, P. L. 141, sec. 1; Purdon's Penna. Stats., Title 7, sec. 321, p. 104).

Advertising as trust company or using word "trust" as part of title.

The laws of this state prohibit any "person, copartnership, (or) limited copartnership" from advertising or putting forth any sign as a trust company or using the word "trust" as a part of his or its name or title. A penalty is prescribed for a violation of this prohibition. (Act of April 22, 1909, P. L. 121, sec. 2, as amended by Act of May 19, 1923, P. L. 274, sec. 1; Purdon's Penna. Stats., Title 7, sec. 687, p. 169).

Unauthorized or unsafe practices or other violations of law; secretary may issue order to discontinue.

Whenever it appears to the secretary that any person has violated any provision of law, or is conducting business in an unauthorized or unsafe manner, the secretary may issue an order directing such person to discontinue such violation of law or unauthorized or unsafe

practices. (Act of June 15, 1923, P. L. 809, sec. 20; Purdon's Penna. Stats., Title 7, sec. 20, p. 25).

Secretary may take possession of business; when.

"The secretary may, after hearing had upon notice given with the approval and consent of the Attorney General, take possession of the business and property of any * * * person subject to the supervision of the department, whenever it shall appear to him that such * * * person:

"I. Has violated any law regulating * * * his business, and has persisted in such violation in disregard of an order duly made by the secretary;

"II. Is conducting business in an unauthorized or unsafe manner and has persisted in disregard of an order duly made by the secretary;

"III. Is in an unsafe or unsound condition to continue business: Provided, in such case, That the secretary may forthwith, without such hearing and consent of the Attorney General, take possession of the business and property of any such * * * person receiving moneys on deposit, when and if, in his opinion the protection of depositors and the public requires such peremptory action;

"IV. Has an impairment of capital, which has not been restored or made good within the time fixed by order of the secretary;

"V. Has suspended payment of obligations;

"VI. Has neglected or refused to comply with the terms of any lawfully issued order of the secretary;

"VII. Has refused, upon proper demand, to submit the records and affairs of the business to the secretary, a deputy, or any duly authorized examiner or agent of the department;

"VIII. Has refused to be examined upon oath or affirmation, regarding such affairs;

"IX. Is in the hands of a receiver appointed by any court, or in any bankruptcy proceeding, or of an assignee or trustee for creditors appointed by such * * * person.

"The secretary may, in like manner, take possession of the business and property of any private or unincorporated bank, or the estate of any private banker, otherwise exempt from the supervision of the department, whenever such private or unincorporated bank shall have made an assignment for the benefit of creditors, or for any of the causes mentioned hereinbefore in this section." (Act of June 15, 1923, P. L. 809, sec. 21, as amended by Act of May 5, 1927, P. L. 762, sec. 7;

Purdon's Penna. Stats., Title 7, sec. 21, pp. 25 and 26.)

Certificate of taking possession; secretary to supersede receiver previously appointed.

When the secretary has taken possession of the business and property of any person, he must make a certificate setting forth that he has so taken possession, and must file such certificate in his office "and cause a certified copy thereof to be filed in the office of the prothonotary, * * *." After the filing of such certified copy, the secretary "shall supersede any receiver previously appointed by any court for, or any assignee or trustee for creditors appointed by, such * * * person." (Act of June 15, 1923, P. L. 809, sec. 22; Purdon's Penna. Stats., Title 7, sec. 22, pp. 27 and 28).

Secretary may be enjoined from continuing possession.

At any time within ten days after the secretary takes possession of any person, such person may apply to the court for an injunction to restrain the secretary from continuing such possession. If it appears from satisfactory evidence that there is just cause for the taking and continuing of possession, the secretary shall not be enjoined; but if this evidence can be overcome by proper proof produced by the person, "the court shall direct the secretary to refrain from further proceedings and to surrender such possession." (Act of June 15, 1923, P. L. 809, sec. 23, as amended by Act of May 5, 1927, P. L. 762, sec. 8; Purdon's Penna. Stats., Title 7, sec. 23, p. 28).

Notice of taking possession to parties holding assets; effect on liens, etc.

The secretary must give notice in writing to all parties holding assets of the fact that he has taken possession of the property and business of a person. "No one having such notice or actual knowledge that the secretary has so taken possession shall have a lien or charge against any of the assets of such * * * person for any charge, payment, advance, or clearance thereafter made or liability thereafter incurred." The status of all parties becomes fixed on the date the secretary files the certificate of possession in his office. (Act of June 15, 1923, P. L. 809, sec. 25, as amended by Act of May 5, 1927, P. L. 762, sec. 9; Purdon's Penna. Stats., Title 7, sec. 25, p. 29).

Inventory of assets.

The Secretary must make a complete inventory of the assets of any person, whose property and business he has taken over. (Act of June 15, 1923, P. L. 809, sec. 26; Purdon's Penna. Stats., Title 7, sec. 26, p.30).

Secretary may suspend or continue business.

The secretary is authorized, upon taking possession of the property and business of any person, "to continue or suspend the business for such

"period as he may deem necessary to enable him to determine whether to liquidate the affairs of such * * * person, and, during such period, to take such action as in his judgment is necessary to conserve the assets and business." (Act of June 15, 1923, P. L. 809, sec. 27; Purdon's Penna. Stats., Title 7, sec. 27, p. 30).

Surrender of possession by secretary.

The secretary may, upon conditions approved by him, surrender possession of the business of any person for the purpose of permitting such person to resume business, to sell or convey his property and franchise, or to merge or consolidate his business with that of another person, or because he is without funds to continue or liquidate the business and property of such person. When possession is so surrendered, the secretary must issue an order to that effect, which order must be filed in his office. A certified copy of the order must also be filed in the office of the prothonotary. (Act of June 15, 1923, P.L. 809, sec. 28, as amended by Act of May 5, 1927, P.L. 762, sec. 10; Purdon's Penna. Stats., Title 7, sec. 28,p.30).

Powers of secretary as receiver.

When the secretary takes possession of the business and property of any person, he has the same rights, powers and duties as a receiver appointed by any court of equity in the State of Pennsylvania. (Act of June 15, 1923, P.L. 809, sec. 29, as amended by Act of May 5, 1927, P.L. 762, sec. 11; Purdon's Penna. Stats., Title 7, sec. 29, p. 20).

Secretary to continue possession until affairs are liquidated; exceptions.

When the secretary has taken possession of the business and property of any person, he shall hold such possession until the affairs of such person have been liquidated by him, unless (1) he is directed by the court to surrender such possession, (2) he has permitted a resumption of business, or a sale or conveyance of property and franchises, or a merger or consolidation, or (3) the depositors and other creditors of such person and the expenses of such liquidation have been paid in full. (Act of June 15, 1923, P.L. 809, sec. 31; Purdon's Penna. Stats., Title 7, sec. 31, p. 32).

Liquidation.

The laws of this State also contain detailed provisions with reference to the liquidation of persons and the duties and powers of the Secretary of Banking in connection therewith. These provisions deal with the duty of the secretary to make an inventory and appraisement of assets of the person, the disposition of all funds, property and investments held by the person in a fiduciary capacity, the notice the secretary must give to depositors and creditors, the proof of claims by depositors and creditors, the allowance of such claims, the filing by the secretary of a partial or final statement of receipts and expenditures and a list of claims allowed or rejected, the distribution of dividends to approved claimants, the hearing and decision of controverted claims,and the payment of liquidation expenses. (Act of June 15, 1923, P. L. 809, secs. 40, 41,43,45 and 49, and secs. 38, 42,44,46,47, and 48, as amended by Act of May 5, 1927, P.L. 762, secs. 17-22; Purdon's Penna. Stats., Title 7, secs. 38,40-49, pp. 37-46).

RHODE ISLAND.

Private banking business apparently prohibited.

The following provisions would seem to prohibit a "person, partnership or association" from transacting a general banking business.

"No corporation, either domestic or foreign, and no person, partnership, or association, except banks, savings bank, or trust companies incorporated under the laws of this state" shall hereafter make use of any sign or other advertising indicating that the place of business or the business carried on is that of a "bank, savings bank, or trust company; nor shall any such corporation, person, association, or partnership receive deposits and transact business in the way or manner of a bank, savings bank, or trust company, or in such a way or manner as to lead the public to believe, or as, in the opinion of the bank commissioner, might lead the public to believe, that its business is that of a bank, savings bank, or trust company; * * *". (P.L. 1909, ch. 404, sec. 24; Banking Laws, 1929, sec. 24, p. 71.)

Examination by bank commissioner to ascertain whether law is being violated.

The bank commissioner and his assistants have authority "to examine the accounts, books, and papers of any corporation, person, partnership, or association which makes a business of receiving money on deposit, in order to ascertain whether such corporation, person, partnership, or association has violated or is violating any provision of this title; * * *". (P.L. 1909, ch. 404, sec. 25; Banking Laws, 1929, sec. 25. pp. 71 and 72.)

Penalty for violation; banking commissioner must report violation to Attorney General; procedure to restrain further violation.

Any person, partnership, or association violating any provision of the section first above quoted must pay a penalty of one hundred dollars a day for every day during which such violation continues, and all such violations must be immediately reported by the bank commissioner to the Attorney General. The penalty may be recovered by an information or other appropriate proceeding brought in the Superior Court for the County in which said violation has occurred, in the name of the Attorney General. Upon such information or other proceeding the court may issue an injunction restraining such person, partnership, or association from further prosecution of its business and may make such other order or decree as may be proper. (P.L. 1909, ch. 404, sec. 25; Banking Laws, 1929, sec. 25, p. 72.)

SOUTH CAROLINA.

Private banks not prohibited; apparently subject to examination; operations also subject to other provisions of law.

It does not appear that the laws of this State prohibit private

banks from transacting a banking business; but it does appear from certain provisions of these laws that private banks are subject to examination by the State Bank Examiner, are expressly required to publish reports of condition, are made subject to the general provisions covering the taxation of banks, and are expressly inhibited from using the words "bank", "banking", "trust", or "trust company" in connection with their business, or from making use of any advertising or transacting business in any manner so as to create the belief that the business engaged in is that of a trust company. These provisions are referred to below.

Banking institutions conducted by "persons" subject to examination by State Examiner.

The Governor of the State of South Carolina is required to "appoint a competent person to examine, from time to time, as hereinafter provided, into the affairs and the condition of all banks and banking institutions conducted by corporations or persons in this State. " (Code of 1922, sec. 3977; Banking Law Pamphlet, 1928, sec. 82, p. 43.) Apparently, this provision makes private banks subject to examination by the State examiner "as hereinafter provided"; but because some of these "hereinafter provided" examination provisions can not be made to apply to private bankers, it would seem that it was intended that such provisions should apply to private banks wherever it is possible to make them applicable and these applicable provisions are set out below.

Duty and power of examiner; report of examination.

"It shall be the duty of such Bank Examiner, and he shall have power to make a thorough examination into all the books, papers and affairs of the aforesaid banks and banking institutions, and in making such examinations the Examiner shall have authority to administer oaths and to summon and examine any and all persons connected with the said banks and banking institutions, and if any person in such examination before the Bank Examiner shall testify falsely, he shall be indictable as for perjury. The Bank Examiner shall make a full and detailed report of his findings and file the same in the office of the State Treasurer, and in this report shall be set forth all violations, if any, of the banking laws of the State, and also such a full summary of the affairs of the bank as shall be necessary for the protection of the rights of the stockholders, depositors and creditors of such bank. It shall also be the duty of said Bank Examiner to forthwith bring to the attention of the said banks all such violations of the banking laws of this State and that the same be remedied or discontinued. He shall furnish all banks so examined by him or his assistants with a copy of said report. (Code of 1922, sec. 3978; Banking Law Pamphlet, 1928, sec. 83, p. 4.)

Number of examinations required; fees.

"The Bank Examiner shall make at least two examinations every year of all the banks and banking institutions in this State * * *." Fees for these examinations are to be charged according to the capital

of the banks. No bank can be required to pay for more than two examinations each year, unless additional examinations are necessary because of the mismanagement or negligence of a bank's officers in which cases the actual expenses of such additional examinations must be paid by the bank examined. The State Treasurer must hold these fees for paying the expenses of the State Examiner and they are payable upon the order of the State Bank Examiner. The State Treasurer must include in his annual report to the Legislature an abstract of the reports made to him by the State Bank Examiner, showing the financial condition of the banks examined by him, and also a schedule of the receipts and disbursements connected with the State Bank Examiner's office. (Code of 1922, sec. 3983, as amended by Acts of 1923, p. 191; Banking Law Pamphlet, 1928, sec. 85, p. 44).

Examiner may take charge of unsound bank and apply for appointment of receiver.

"If the State Bank Examiner shall find that any of the said banks or banking institutions are insolvent, or that their business is being so dishonestly and fraudulently conducted as to jeopardize the interests of the depositors, creditors or stockholders, he shall have full power, upon consultation with the State Treasurer, to take and retain possession of all the assets and property of every description belonging to such bank or banking institution: Provided, He shall have first applied for and obtained an order to this effect from a Circuit Judge, either residing or presiding at the time, in the Circuit in which such bank or banking institution is located, two days' notice of such application being first given to the Board of Directors of said bank of the application for said order. And it shall be his duty, and he is hereby authorized and empowered, to make proper application to the court for the appointment of himself or some other person as receiver to wind up and settle the affairs of such bank or banking institution." (Code of 1922, sec. 3985; Banking Law Pamphlet, 1928, sec. 87, p. 46).

Reports of condition and business must be published; penalty for failure to publish.

"All institutions doing business in this State in lending money and receiving deposits, under Acts of incorporation granted by the State, are hereby required, under penalty of a forfeiture of their charters, to publish in a newspaper in the city, town or village where they, or any branch thereof, may do business, when and as called for by the State Bank Examiner, without previous notice, a correct report of the condition and business of such institution, which report shall contain a statement, under oath, by the President or Cashier of such institution, of the amount of the capital stock paid in, deposits, discounts, property and liabilities of said institution, verified by three of the directors thereof.

"Upon failure of any such institution to publish the report required herein, the Attorney General, on notice thereof, shall at once take the necessary steps to vacate the charter of said institution. This section shall apply to all private banking institutions, whether chartered or not." (Code of 1922, sec. 3988; Banking Law Pamphlet, 1928, sec. 60, p. 28.)

Taxation.

The laws expressly make private banks subject to the provisions covering the taxation of the shares of stock and real estate of banks, and contain detailed requirements with reference to the manner of imposing such taxation. (Code of 1922, sec. 342, as amended by Laws of 1924, p. 1220, sec. 365, sec. 400-403; sec. 404, as amended by Laws of 1927, p. 265, sec. 405-412, and Acts approved March 21, 1924, p. 116, Acts of 1924, and April 14, 1925, p. 294, Laws of 1925; Banking Law Pamphlet, 1928, secs. 92-108, pp. 49-55.) Taxation of private banking institutions is also provided for by Chapter 194, Acts of 1925, p. 294.

Use of words "Bank" or "Banking".

"It shall be unlawful for any person or persons in this State to use the words 'Bank' or 'Banking' in connection with any business, calling or pursuit, other than a legalized incorporated banking institution. Any person or persons violating the provisions of this Act shall be subject to a fine of not less than one thousand ($1,000.00) dollars and not more than ten thousand ($10,000.00) dollars and by imprisonment not exceeding ten years, nor less than one year, in the discretion of the court." (Criminal Code of 1922, sec. 235; Banking Law Pamphlet, 1928, sec. 145, p. 109).

Use of words "trust" or "trust company", or transaction of business as trust company.

No person, association or firm "other than trust companies chartered under the laws of the State of South Carolina prior to the passage and approval of this Act, or other than a corporation authorized to do business of a trust company and subject to the supervision of the State Bank Examiner, shall make use of the words 'trust' or 'trust company' as part of any artificial or corporate name or title," nor make use of any advertising indicating that the business conducted is that of a trust company," nor transact business in such way or manner as to lead the public to believe or as in the opinion of the bank examiner might lead the public to believe, that his or its business is that of a trust company." A penalty is prescribed for a violation of these provisions. (Acts of 1928, ch. 693, sec. 24, p. 1283; Banking Law Pamphlet, 1928, sec. 24, p. 126).

Bank examiner may examine books, etc., in case of violation of above provisions.

"The bank examiner shall have authority to examine the accounts, books and papers of any person, association, firm or corporation whom he has reason to suspect is violating the provisions of this (above) section and to summon and examine under oath, which he is empowered to administer, any person whom he may have reason to believe has violated or is a participant in any violation of the provisions of this section." (Acts of 1928, ch. 693, sec. 24, p. 1283; Banking Law Pamphlet, 1928, sec. 24, p. 126).

SOUTH DAKOTA.

Private banking business permitted, but provisions of bank act made applicable.

It appears from the following provisions that a private banking business is not prohibited, but that where such business is engaged in it is subject to the same general provisions as are made applicable to incorporated banks and trust companies by the bank act.

"For the purpose of this chapter every corporation, association, firm or individual in this state whose business, in whole or in part, consists in the taking of deposits or buying and selling exchange shall be held to be a bank, and as thus defined each individual stockholder or member of such corporation, association or firm, except as to national banks, shall be subject to the provisions of this chapter". "This chapter" covers the organization and operation of banking institutions. "Where reference in this chapter is made to banks, trust companies or the business of banks or trust companies in any manner, the same shall be construed as applying to any such corporation, association, firm or individual so engaged in business as defined in this section, * * *". (South Dakota Revised Code of 1919, sec. 8948; Banking Laws, 1927, sec. 8948, p. 15). "* * * no charter or authority to engage in the banking business in this state shall be issued and no individual, co-partnership or corporation shall be permitted to engage in the banking business except on Certificate issued by the Superintendent of banks upon approval of the depositors' guaranty fund commission." (South Dakota Revised Code of 1919, sec. 8949; Banking Laws 1927, sec. 8949, p. 15). "It shall be unlawful for any person to advertise, publish or otherwise represent that he is engaged in the banking business, without first having obtained authority from the superintendent of banks as provided in this chapter", and a penalty is prescribed for unauthorized banking. (South Dakota Revised Code of 1919, sec. 9000; Banking Laws, 1927, sec. 9000, p. 33).

TENNESSEE.

Banking business may now only be transacted by corporations.

The following provisions of the laws of this State would seem to restrict the right to obtain the requisite certificate to do a banking business, after the passage of the so-called banking act of 1913, to a "corporation, firm or individual" which or who has complied with "the provisions of the law regulating the incorporation of banking corporations".

"Before any corporation, firm or individual shall open or commence the transaction of business as a bank in this State, after the passage of this (1913) Act, it shall first submit its affairs to an examination by the Superintendent of Banks, who shall ascertain whether the provisions of the law regulating the incorporation of banking corpor-

ations have been complied with, and whether the full amount of the capital stock with which it proposes to commence doing business has been paid in. If he shall find these things to have been properly done, he shall then issue a certificate to the said corporation, firm or individual banker, authorizing them to operate and carry on a business of banking." (Public Acts of 1913, ch. 20, sec. 24; Banking Law Pamphlet, with amendments to and including 1923, sec. 24, p. 22.)

"The provisions of this Act shall apply to all persons and corporations carrying on a banking business in this State, except that the provisions of this Act shall not apply to national banks". (Public Acts of 1913, ch. 20, sec. 42; Banking Law Pamphlet, with amendments to and including 1923, sec. 42, p. 27.)

"The term or word 'bank', or 'banks', or 'banker', as used in this Act, wherever it may occur in any part thereof, shall signify, mean, cover and include every trust company, loan company, mortgage security company, safe deposit company, receiving money on deposit, and every individual, firm, corporation, association or company doing a banking, loan or discount business and receiving money on deposit and performing functions of a bank". (Public Acts of 1913, ch. 20, sec. 44; Banking Law Pamphlet, with amendments to and including 1923, sec. 44, p. 28).

The bank act also contains numerous references to the words "persons", "firms" and "individuals", and, in some few instances, the term "private banker" is used; furthermore, the act, in certain sections thereof (sec. 10, paragraphs 5 and 15, and sec. 15, paragraph 1), specifically distinguishes between "corporations" and "persons" or "firms" engaged in the banking business in outlining the procedure to be followed in complying with the requirements of the respective sections, indicating that a private banking business is actually recognized in this State. In view of the provisions above quoted, however, it would seem that it was intended that this recognition should apply only to private bankers who were transacting a banking business prior to the passage of the 1913 bank act, although no such exception is expressly made in the act itself.

TEXAS.

Private banking business permitted, but subject to certain provisions of law.

"It is hereby declared to be the public policy of this State that no additional private banking institution or business shall be organized or established, after the taking effect of this Act, and it is hereby declared that it shall be unlawful for any person, association or persons, partnerships, or trustee or trustees acting under any common law declaration of trust, to hereafter organize or establish, begin or resume the operation of any banking institution or business within this State", except as provided hereinafter. (Laws of 1923, ch. 185, sec. 1,

p. 422; Rev. Stats., 1925, art. 541.) "It shall be the duty of private individuals or firms engaging in the banking business to use after the name under which the business is conducted, the word in parenthesis 'Unincorporated', and failure to do so shall subject the offender to a penalty of one hundred dollars * * *". (Acts of 1905, S.S., p. 11; Rev. Stats., 1925, art. 541.)

Advertising.

It is unlawful for any private banker "to use, advertise or put forth any sign as a bank, trust company, bank and trust company or savings bank, or to in any way solicit or receive business as such, or to use as their name or part of their name on any sign, advertising or letter head or envelope the word bank, banker, banking, banking company, trust, trust company, bank and trust company, savings bank, savings, or any other term which may or might be confused with the name of a corporation organized under the general provisions of the banking laws of this State." (Acts of 1925, ch. 148, p. 356; Rev. Stats., 1925, art. 541-A.)

Names of persons only can be used in name.

It is unlawful for a private bank to adopt or use any artificial name or business title or to use any other than the name of the person or persons of the private bank, in the management, conduct or operation of such private bank. (Acts of 1925, ch. 148, p. 356; Rev. Stats., 1925, art. 541-B.)

Funds not to be employed in speculative ventures.

No private bank "engaged in the business of banking or operating a bank of deposit in this State shall employ any part of the funds of the depositors of such institution in any speculative venture or enterprise owned or promoted by said bank or any of the partners, officers or managers thereof." (Acts of 1923, ch. 185, sec. 3, p. 423; Penal Code, 1925, art. 560.)

Affidavit of solvency required.

Not later than January 15th of each year, each private bank is required to file with the county clerk of the county in which the principal place of business of the bank is conducted, an affidavit stating that the bank is solvent and has and owns property and assets in the State of Texas the value of shich is in excess of any and all of the liabilities of such private bank. (Acts of 1923, ch. 185, sec. 4, p. 423; Penal Code, 1925, art. 561.)

Statement of ownership required; publication of.

Not later than January 20th of each year, each private bank is required to file with the county clerk of the county in which its principal place of business is located, a written sworn statement giving the names of each person holding or owning any financial interest in the bank, and a copy of such statement must be published "in some newspaper of general circulation in said county, if such newspaper be published within said county." (Acts of 1923, ch. 185, sec. 5, p. 423; Penal Code, 1925, art. 562.)

Restriction on advertisement of responsibility.

No private bank can advertise in any manner that it owns, possesses or has a financial responsibility in excess of the real and true financial responsibility of such bank. The laws define the term "financial responsibility" to mean money or real or personal property within the State. (Acts of 1923, ch. 185, sec. 8, p. 424; Penal Code, 1925, art. 563.)

Violation of preceding provisions; penalty.

A violation of any of the preceding provisions by any private bank or any member thereof constitutes a misdemeanor "punishable by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment in jail for not less than thirty days nor more than twelve months, or by both such fine and imprisonment. Each day said business is carried on or attempted to be carried on shall be a separate offense." (Acts of 1923, ch. 185, sec. 8, p. 424; Penal Code, 1925, art. 564.)

Receiving deposits while insolvent; penalty.

Any private banker, or any manager, cashier or other person, owning or operating a private bank, who receives or assents to the reception of any deposit of money or other valuable thing into the bank, or if such private bank, manager, cashier or other person, creates or assents to the creation of any debt, debts or indebtedness, in consideration or by reason of which indebtedness, any money or valuable property is received into the bank, after knowledge that such banker "is insolvent, or in failing circumstances, he shall be confined in the penitentiary not less than two nor more than ten years. " The failure of the private banker is prima facie evidence of knowledge that such banker was insolvent or in failing circumstances when the money or property was received. (Acts of 1923, ch. 185, sec. 7, p. 424; Penal Code, 1925, art. 565.)

Exceptions from above provisions.

The above provisions do not apply to private banks which were "actively engaged in the operation of any bank, trust company, bank and trust company or savings bank" at the time this (1925) Act became effective; nor do such provisions apply to "any bank which may have been in successful operation in this State for twenty years and shall have suspended operations prior to the passage of this Act, but which shall resume operation within twelve months after the passage of this Act. " The right to continue or resume business "is hereby expressly recognized, confirmed and fixed. " These provisions also do not apply to a private banker "who has for a period of one year next preceding the date that this Act becomes effective, and who, as such, in the course of the liquidation of any bank or trust company or bank and trust company within this State, has acquired the assets, or any part thereof, including the real estate used as its banking house or place of business and has assumed the liabilities, or a part thereof of such liquidated bank or trust company or bank and trust company. " (Acts of 1925, ch. 148, p. 356; Rev. Stats., 1925, art. 541-C; Penal Code, 1925, art. 566.)

"Blue Sky Law" not applicable to private banks.

The laws of this State also provide that the so-called "Blue Sky Law" shall not apply to private banks. (Rev. Stats., 1925, art. 599.)

UTAH.

Private banking expressly prohibited.

The laws of Utah provide that "The establishing or maintenance of private or partnership banks is hereby expressly prohibited; provided, that all such banks now in operation shall retire from business or incorporate under the provisions of this chapter within a period of five years from and after the approval of this chapter." (Act approved March 30, 1911; Compiled Laws of Utah, 1917, Title 19, ch. 6, as amended, sec. 994; Banking Laws, 1927, sec. 994, p. 9.)

VERMONT.

Private banking business prohibited.

"A person, firm, association or corporation, except corporations reporting to and under the supervision of the bank commissioner, shall not advertise or put forth any sign as a bank, banking association or trust company, or in any way solicit or receive deposits or transact business as a bank, banking association or trust company, or use the words 'bank', 'banking association' or 'trust company'; but this section shall not prevent an individual, as such, from acting in a trust capacity. A person, firm, association or corporation subject to the provisions of this section, who violates a provision thereof, shall be fined not more than five hundred dollars for each offense." (General Laws Relating to Banks, ch. 226, Part II, sec. 5419; Banking Laws, 1918, sec. 5419, p. 31.)

VIRGINIA.

Banking business may only be transacted by corporations; exceptions.

"No person, co-partnership or corporation, except corporations duly chartered and already conducting the business of banking or trust, under authority of the law of this State or the United States, or which shall hereafter be incorporated under the laws of this State, or authorized to do business under the banking laws of the United States, shall engage in the business of banking or trust in this State; and no foreign Corporation shall do a banking or trust business in this State, except that nothing in this chapter shall prevent any person or co-partnership or corporation from lending money on real estate and personal security or collateral, or from guaranteeing the payment of bonds, notes, bills and other obligations, or from purchasing or selling all stocks and bonds. But this section shall not apply to or affect any private banker or firm of private bankers who shall have been engaged in business on the first day of January, Nineteen Hundred and Ten." (Virginia Bank Act, sec. 3, as amended; ch. 507, Acts of 1928, p. 1308, as amended by ch. 278, Acts of 1930, p. 702.). The laws also contain provisions prohibiting persons or corporations not lawfully

engaged in the business of banking from using advertising indicating that the place of business or the business carried on is that of a bank or from using the word "bank", "banking", etc. in connection with the business. (Virginia Bank Act, sec. 4; ch. 507, Acts of 1928, p. 1308; Banking Law Pamphlet, 1929, sec. 4149 (4), p. 25.)

Penalty for violation of provisions.

The laws provide that any person or persons violating the provisions referred to above "either individually or as an interested party, in any co-partnership or corporation, shall be guilty of a misdemeanor." (Virginia Bank Act, sec. 4; ch. 507, Acts of 1928, p. 1308; Banking Law Pamphlet, 1929, sec. 4149 (4), p. 25.)

State Corporation Commission may examine books, records, etc. when violation suspected.

The State Corporation Commission has authority to examine the accounts, books and papers of any person or co-partnership whom it has reason to suspect is doing a banking business, in order to ascertain whether such person or co-partnership has violated or is violating, any provision of the banking act. The refusal to submit such accounts, books and papers is prima facie evidence of a violation. (Virginia Bank Act, Sec. 4; ch. 507, Acts of 1928, p. 1308; Banking Law Pamphlet, 1929, sec. 4149 (4), p. 25.)

WASHINGTON.

Private banking business apparently prohibited.

The laws of this state provide for the incorporation of banks and trust companies and mutual savings banks to engage in the business of banking as defined below. (Laws of 1923, sec. 3, p. 302, Laws of 1929, sec. 2, p. 93, sec. 3, p. 95, sec. 1, p. 437; Rem. Comp. Stats., 1927 Supp., secs. 3226 and 3229, as amended by Laws of 1929, secs. 2 and 3, pp. 93 and 95, and secs. 3227 and 3228; Banking Laws, 1929, secs. 29-32, pp. 13-16; Laws of 1915, secs. 1-5, pp. 549-552; Rem. Comp. Stats., sec. 3313 - 3317; Banking Laws, 1929, secs. 145-149, pp. 62-65) The laws, however, are silent with reference to the organization or establishment of private banks.

The laws further provide that "no person shall engage in banking except in compliance with and subject to the provisions of this (bank) act, except it be a national bank or except in so far as it may be authorized so to do by the laws of this state relating to mutual savings banks, * * *". (Laws of 1919, sec. 7, p. 730; Rem. Comp. Stats., sec. 3222; Banking Laws, 1929, sec. 25, p. 12.) It would seem, therefore, that this provision and the provisions digested immediately below, coupled with the silence of the laws as far as the organization of private banks is concerned, restrict the transaction of a banking business to incorporated banks, trust companies, mutual savings banks and national banks.

Definition of terms.

"The term 'banking' shall include the soliciting, receiving or accepting of money or its equivalent on deposit as a regular business."

"The term 'bank', where used in this act, unless a different meaning appears from the context, means any corporation organized under the laws of this state engaged in banking, other than a trust company, or a mutual savings bank."

"The term 'person' where used in this act, unless a different meaning appears from the context, includes a person, firm, association, partnership and corporation, and the plural thereof, whether resident, non-resident, citizen or not." (Laws of 1917, sec. 14, p. 275; Rem. Comp. Stats., sec. 3221; Banking Laws, 1929, sec. 24, p. 11.)

Use of word "bank", etc., and certain other advertising; penalty for unauthorized use.

The laws also contain the requirement that the name of every bank shall contain the word "bank", but provide that only a national bank, a bank or trust company authorized by the laws of Washington, or a foreign corporation, authorized by the bank act, shall use this word or the words "banking", "banker" or "trust", or other advertising indicating that a banking business is being carried on. "Every person who, * * * violate any provision of this section shall be guilty of a gross misdemeanor". (Laws of 1925, Ex. Sess., sec. 1, p. 177; Rem. Comp. Stats., 1927 Supp., sec. 3225; Banking Laws, 1929, sec. 28, p. 13.)

WEST VIRGINIA.

Private banking business prohibited.

"No person, persons, corporation or corporations doing business in this State, except a banking institution chartered and organized under the provisions of this article and article one of this chapter, and except a banking association chartered under acts of the congress of the United States, shall use in connection with such business, or as a designation or title, the term "bank," "banker", "banking", "banking company", "banking association" "savings bank", or "trust company"; or engage in the banking business as defined in sections six and seven of this article, or hold himself, themselves or itself out as engaged in any such business.

"Any person or corporation and/or officer or director of any corporation violating any of the provisions of this section shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be fined not more than one thousand dollars; and at the discretion of the court any individual so offending shall be imprisoned in the county jail for a period not exceeding six months, or both fined and imprisoned, within such limits." (Section 2, Article 4, Chapter 31, Code of 1931; 1905, c. 45; 1907, c. 79; 1913, c. 21; 1919, c. 60; Code 1923, c. 54, section 78; 1925, c. 34; 1929, c. 23, Section 1)".

"No corporation chartered under the laws of this State, or of any other state, territory or sovereignty, except banking associations chartered under the laws of the United States of America, and banking institutions chartered under the laws of this State, as defined in this article, and no person, partnership or association of persons as a trust, or other

organization, shall engage in the business of banking in the State of West Virginia, or shall receive or accept deposits of money, or borrow money by receiving and giving credits for deposits, or by issuing certificates of deposit or certificates of indebtedness, or by making and negotiating any writing purporting to be a bond, contract, or other obligation, the performance of which requires the holder or other party to make deposits of money with the issuer, or by means of any other plan, pretext, scheme, shift or device.

"Nothing contained in this section shall affect the rights, privileges, objects or purposes delegated to other corporations by the general corporation law or other laws of this State.

"Any corporation or individual who violates any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction shall be fined not more than five thousand dollars, and, in addition to such penalty, every corporation so offending shall forfeit its corporate franchise, and every individual so offending shall be subject to a further penalty by confinement in jail for not more than one year." (Section 18, Article 4, Chapter 31, Code of 1931; 1903, c. 8; 1919, c. 80; 1921, c. 126; Code 1923, c. 54C, Sections 12, 14; 1925, c. 33; 1929, c. 23, Section 10)."

WISCONSIN.

Banking business may only be transacted by corporation.

"It shall be unlawful for any person, copartnership, association, or corporation to do a banking business without having been regularly organized and chartered as a national bank, a state bank, a mutual savings bank, or a trust company bank." (Wisconsin Statutes, ch. 224, sec. 224.03; Banking Laws, including amendments of 1927, sec. 224.03, p. 63.)

Definition of term "bank".

" The term 'bank', as used in this chapter, shall be construed to mean any incorporated banking institution which shall have been incorporated under the laws of this state as they existed prior to the passage of this chapter, and to such banking institutions as shall hereafter become incorporated under the provisions of this chapter. " (Wisconsin Statutes, sec. 224.01; Banking Laws, including amendments of 1927, sec. 224.01. p. 63.)

Penalty for unlawful banking.

"Any person or persons violating any of the provisions of * * * (the) section (first above quoted), either individually or as an interested party in any copartnership, association, or corporation shall be guilty of a misdemeanor and on conviction thereof shall be fined in a sum not less than three hundred dollars nor more than one thousand dollars, or by imprisonment in the county jail not less than sixty days nor more than one year, or by both such fine and imprisonment." (Wisconsin Statutes, sec. 224.03; Banking Laws, including amendments of 1927, sec. 224.03, p. 63).

WYOMING.

Banking business may only be transacted by corporations.

In order to transact a banking business as defined below, the laws of this State provide for the incorporation of banks, savings banks, loan and trust companies and trust company banks. (Laws of 1925, ch. 157, secs. 3, 55, 69 and 75; Banking Laws, with 1927 amendments, sec. 3, p. 11, sec. 55, p. 22, sec. 69, p. 26 and sec. 75, p. 28.) The law also provides that "No person, firm or corporation (except national banks) shall carry on a banking business except in compliance with the provisions of this (bank) act." (Laws of 1925, ch. 157, sec. 11; Banking Laws, with 1927 amendments, sec. 11, p. 13) It is further provided that "it shall be unlawful for any person or persons, co-partnership or association to transact the business of a savings bank, * * * unless such person, company or association has been duly incorporated under this act; * * * ." (Laws of 1925, ch. 157, sec. 68; Banking Laws, with 1927 amendments, sec. 68, p. 26.)

Scope of Bank Act.

"Every bank, banker or corporation in this State doing a banking

business under the provisions of this (bank) Act, shall be known as a State bank; and any and all reference herein made to this Act to state banks shall apply to every individual, firm or corporation doing a banking business under the provisions of this Act. " (Act of February 15, 1929, sec. 1; Laws of 1929, ch. 54, sec. 1.)

Definition of bank and banking business.

"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. " (Laws of 1925, ch. 157, sec. 10; Banking Laws, with 1927 amendments, sec. 10, p. 13.)

Restriction against use of certain advertising.

"No person, persons, firm or corporation shall advertise, issue or circulate any card or other papers, or exhibit any sign using either or any of the terms 'bank', 'banker', 'banking house', or 'trust company', until they have fully complied with the provisions of this Act; provided, that the term 'trust company' may be used by a person, firm or corporation when the business transacted is in no sense a banking business." (Laws of 1925, ch. 157, sec. 11; Banking Laws, with 1927 amendments, sec. 11, p. 13.) "It shall be unlawful for any person or persons, copartnership or association * * * to assume the name of a savings bank or association, unless such person, company or association has been duly incorporated under this Act; * * *". (Laws of 1925, ch. 157, sec. 68; Banking Laws, with 1927 amendments, sec. 68, p. 26)

Penalty for unlawful banking or advertising.

Any person, firm or corporation violating any of the above provisions shall be deemed guilty of a misdemeanor, and upon conviction shall be subject to certain prescribed penalties. (Laws of 1925, ch. 157, secs. 12 and 68; Banking Laws, with 1927 amendments, secs. 12 and 68, pp. 13 and 26).