

BANKING AND COMMERCIAL LAWS.

COMPILED EXPRESSLY FOR THE BANKERS' DIRECTORY.

ALABAMA.

BANKING LAW.

(Revised by D. T. BLAKEY, Attorney at Law, Montgomery.)

There is no provision of law for the establishment of banks of issue in this State. Banks of discount and deposit may be established under the general incorporation laws, but must be wound up at the end of twenty years. Depositors not claiming interest are preferred creditors in case of insolvency.

Statutory provisions for banks of discount and deposit: 1. Any number of persons (not less than three stockholders) may associate themselves together to establish a bank of deposit and discount; their capital stock to be not less than \$50,000, of which not less than 20 per cent., and in no case less than \$25,000, must be actually paid by the subscribers for stock before the filing of the declaration of incorporation. 2. Such persons must make a declaration in writing under oath, setting forth, (a) The name of the association; (b) place of business; (c) the number of shares of capital stock, and total amount; (d) names and residences of stockholders, and number of shares held by each; (e) time when the business of the association is to commence and to end. 3. Which declaration must be recorded in the Probate Court of the county where the bank is established. 4. A transcript of the declaration of incorporation must also be filed in the office of the Secretary of State, who issues to the incorporators a certificate of incorporation. 5. A stockholder is liable for the debts of the bank only to the extent of unpaid stock.

By a recent statute it is made an offense punishable by fine for any bank, or officer of a bank of any kind, to receive deposits when the bank or person doing such banking business is in a failing or insolvent condition.

Any banker who discounts a bill or note at a greater rate than 8 per cent. can not enforce the collection of same except as to the principal, and if any interest has been paid it must be deducted from the principal.

COMMERCIAL LAW.

Acknowledgments and proofs of conveyances may be taken by Judges of the Supreme and Circuit Courts and their Clerks, Chancellors, and Registers in Chancery, Judges of Probate Courts, Justices of the Peace, and Notaries. In other States they may be taken by Judges and Clerks of any Federal Court, Judges of any court of record, Notaries Public and Commissioners appointed by the Governor of this State. If out of the United States, by the Judge of any court of record, Mayor or Chief Magistrate of any city, town, borough or county, Notaries Public, or any Diplomatic or Consular or Commercial Agent of the United States.

Assignments and Insolvency. Every general assignment made by a debtor, or a conveyance by a debtor of substantially all of his property in payment of a prior debt, by which a preference or priority of payment is given to one or more creditors, shall enure to the benefit of all the creditors equally, but this section shall not apply to mortgages given to secure a debt contracted contemporaneously with the execution of the mortgage. All assignments by a debtor made with intent to hinder, delay, or defraud creditors, are void.

Attachment process will issue for the collection of a debt, whether due or not, to recover damages for breach of contract, or where the action is for damages alone, upon affidavit by the creditor or his agent of the amount due and that the debtor absconds, or resides out of the State, or secretes himself so that process can not be served upon him, or is about to remove out of the State, or has or is about to fraudulently dispose of his property, or fraudulently withholds money, chattels or effects which are liable to the satisfaction of his debts; plaintiff must give bond in double the amount claimed. Garnishment process will issue in aid of attachment in all such cases. Garnishment may be dissolved by giving bond. Acts, 1891, p. 590.

Bills of Lading. False bills of lading and receipts are forbidden. No warehouseman, common carrier, or wharfinger, or other person engaged in the business of storage, carriage, or keeping for shipment, or of forwarding things or property shall issue any bill of lading or document for any property, by which it shall appear that such property has been shipped on any vessel or delivered at any railroad warehouse, unless same actually delivered; provided, railroad may, in certain cases, issue bill of lading upon delivery of cotton to compress.

Bills of Exchange. Promissory notes payable in money at a bank or private banking house, or a certain place of payment therein designated, and bills of exchange are governed by the commercial law. All other instruments payable at a bank, or other

designated place of payment, are governed by the commercial law as to days of grace, protest, and notice. Three days of grace allowed on commercial paper. Grace allowed on sight bills. No acceptance valid unless in writing. Damages on protest for non-acceptance or non-payment 5 per cent. This covers all charges except interest.

Collaterals. All persons engaged in the business of making discounts or lending money are required, on receipt by them of any collateral for a loan or discount, if demanded by the borrower, his agent or attorney, to give a receipt; which said receipt shall designate the collateral so held, the amount and character of the debt, and the time when due, and if the same be negotiable bonds, the series number thereof shall also be given in said receipt; and if any corporation or person, so making discounts or lending money, willfully fail or refuse to give such acknowledgment as above provided, such corporation or person shall have no title to said collaterals. Personal property or securities, whether negotiable or not, pledged or deposited as collateral security, may, in default of payment, be sold by the creditor at public auction, at place at which sales at public outcry are usual. Creditor must give to pledgor written notice of his intention to sell, and of time and place of sale, two days before sale, and must advertise sale for five days in newspaper published in county where it is to be made. Amount of debt and actual and lawful costs taken out of proceeds, balance paid to pledgor or his assignee; upon failure to pay such balance to pledgor or his assignee, upon demand after receiving proceeds of sale, person selling liable for interest thereon at rate of five per cent. for each thirty days payment is so withheld. Name of pledgor not to be published without his consent. Parties may make such other contracts as they may see fit for the sale of pledges, not in conflict with laws of the State. Pledgee can not assign or transfer pledged property to any other than pledgor or his assignee, except with original debt. Violation of this provision operates a discharge of the pledge, and reinstatement of pledgor's original ownership thereof, but does not affect debt. Pledged property may be assigned with original debt, assignee taking rights of original pledgee. Collaterals held by pawnbrokers must be entered in a book that is open to inspection, and can be sold only at public auction after five days' advertisement.

Contracts for conditional sale or lease of railroad equipment or rolling stock, by which the vendor or lessor retains the title of the property sold until payment in full is made, possession being given to the vendee or lessee, are void against judgment creditors and purchasers without notice unless recorded within three months like conveyances of real estate, and have the same privileges for the purposes of evidence and notice as conveyances of land. Each locomotive, engine or car so sold or leased must have the name of the vendor or lessor plainly and permanently marked thereon, so as to readily and clearly indicate the ownership thereof. Contracts for the sale of other personal property may be made with a condition that the vendor retains the legal title until paid for, and are recognized by the court as valid although not recorded. Contracts for the sale of land, or any interest therein, except leases for not longer than one year, or contracts not to be performed in a year, or to answer for the debt of another, or upon consideration of marriage, are void unless in writing, subscribed by the party to be charged.

Corporations. Every company, corporation, or association, not organized under the laws of Alabama, shall, before engaging in any business in this State, file in the office of the Secretary of State, at the Capitol, in Montgomery, an instrument in writing, under the seal of such company, corporation, or association, and signed officially by the president and secretary thereof, designating at least one known place of business in this State, and an authorized agent residing thereat. If such corporation is engaged in any business of insurance, the statement must be filed in the office of the Auditor. If the agent is changed, a new paper must be filed. Held not to apply to corporations selling goods by traveling agent or sample. The last Legislature passed a law requiring all foreign corporations doing business in this State to pay license fees ranging from \$25 to \$250, according to capital, and declaring all contracts made after July 1, 1883, by any corporation that has not paid such license absolutely void.

Courts. Terms and Jurisdiction. Circuit Courts have unlimited common law jurisdiction and exclusive jurisdiction of libel, slander, assault and battery, and ejectment. The Courts of Chancery have exclusive equity jurisdiction. Regular terms of both twice a year in nearly every county. Chancery Courts have full equity powers, and the City Courts of Montgomery, Birmingham and Mobile have concurrent jurisdiction with the Circuit Courts. Probate Courts hold term on second Monday of each month but court always open except Sundays. Justices of the Peace have jurisdiction of all civil causes where the amount in controversy does not exceed \$100 in value, except in cases of libel, slander, assault and battery, and ejectment. Names of all parties plaintiff and individual names of co-partners must be given in writs. Partnership may be sued in courts of law in firm name, without setting forth names of co-partners. The writ may be served upon any one of the partners; the judgment reaches the partnership property alone. Any one partner, or his personal representative, may be sued alone

on a partnership obligation. Non-residents must give security for costs when suit is commenced or within such time thereafter as the court may direct. Money may be deposited with the Clerk instead of sureties.

Days of Grace. All commercial paper is entitled to grace. If the last day of grace falls on a holiday the paper is due the next day. Holidays are Sundays, Christmas day, 1st January, 22d February, 26th April, 4th July, Thanksgiving day, Good Friday, and Mardi Gras.

Depositions. In cases at law depositions may be taken of witnesses who can not be present at the trial in the following cases: When the witness is a female; when the witness is too sick to attend court; when the witness resides more than 100 miles from the place of trial or is absent from the State; when the witness is about to leave the State and not return in time for the trial; when the witness is the sole witness of the facts; when the witness is one of the officers designated in Code § 2,801. Affidavit must be made of one of the above facts, and of the materiality of the witness. May be taken on interrogations or oral examination. Must in either case be by commissioner appointed by the court for that purpose. All evidence in chancery is by deposition upon interrogations filed in the court, and taken by commissioner under a commission issued by the court. The commissioner may be any suitable person, need not be an officer.

Exemptions. The homestead not exceeding 160 acres in area, and not exceeding \$2,000 in value, or, in a city, town or village, the lot with dwelling, etc., not exceeding \$2,000 in value, owned and occupied by any resident. Exemption of homestead may be waived, but wife must join in the waiver and it must be acknowledged. Any person may, by stipulation in writing, waive whole or any specific part of exemption of personalty, without the consent of wife. Personal property to value of \$1,000 selected by debtor, and wages to \$25 per month, are also exempt. Widow's exemption includes also wearing apparel, family books and pictures, and provisions for twelve months.

Executions. Writ of *fi. fa.* is a lien only within the county in which it is received by the officer, on lands and personalty of defendant subject to levy and sale, from the time only that the writ is received by such officer and continues as long as writ is regularly delivered to the Sheriff without the lapse of an entire term. A statement of a judgment certified by the Clerk of the Court may be filed in the office of the Judge of Probate, which makes the judgment a lien within the county in which it is filed for ten years thereafter. Execution may be issued on such judgment at any time. Acts, 1891, p. 3 5. No stay of execution in Circuit Court except by appeal, and supersedeas bond which delays collection until affirmance by Supreme Court, and entails ten per cent. damages, with legal interest and costs. In Justice's Courts stay is granted on good security; below \$20, thirty days; over \$20, sixty days.

Fraud. Obtaining money or goods on credit under false color or pretense of carrying on business, or under false representation of pecuniary condition, with intent to defraud, or bringing into the State money or goods so obtained, punished as larceny.

Garnishment may issue in any case after suit commenced upon affidavit of necessity and bond as in attachment cases.

Insolvency. There are no insolvent laws in this State. Estates of dead men may be declared insolvent and the creditors paid *pro-rata*. Claims against such estates must be filed within nine months after adjudication of insolvency, verified by affidavit.

Interest. Legal rate is eight per cent., and same is allowed on all open accounts, judgments and decrees. Usury forfeits all interest.

Judgments of courts of record are proved by a certified transcript. Cases stand for trial at first term of Circuit Court, if summons executed twenty days previous to first day. Judgment not a lien. Execution received by Sheriff during life of defendant may be levied after his decease, or alias execution issued and levied if there has not been lapse of entire term so as to destroy lien originally created. Above applies to executions from Circuit and Chancery Courts. An execution issued by a Justice of the Peace is a lien only from time of its levy. In Justice's Courts cases stand for trial after three days' notice.

Lien for Rent. Landlords of store houses, dwelling houses and other buildings, have a lien for rent on such goods, furniture and fixtures therein as may belong to the tenant, superior to all other liens, except for taxes.

Limitations. Notes and stated accounts, six years; open accounts, three years; sealed instruments, real actions and motions against officers, ten years; judgments, twenty years; actions on the case, one year. Bar created by statute can only be removed by a partial payment, made on the contract before the bar is complete, or by an unconditional promise in writing. Those under legal disability have three years after its removal in which to begin suit; but no action can be commenced after twenty years. Statutes of limitation apply to married women's separate estates. Actions founded on a promise in writing not under seal, or for trespass to person or property, must be brought within six years. Statutes of limitation are made applicable to equitable as well as legal demands, but do not run against direct trusts.

Married Women. The wife, if the husband be of sound mind and has not abandoned her, or be not a non-resident of the State, or be not imprisoned under a conviction for crime for a period exceeding two years, cannot alienate her lands, or any interest therein, without the assent and concurrence of the husband, to be manifested by his joining in the alienation in the mode prescribed by law for the execution of conveyances of land.

But if the husband be *non compos mentis*, or has abandoned his wife, or is a non-resident of the State, or is imprisoned under a conviction for crime for a period exceeding two years, the wife may alienate her lands as if she were sole. But the personal property of the wife, or any part thereof, may be sold, exchanged, or otherwise conveyed or disposed of by the husband and wife, by parol or otherwise. If the husband is living apart from the wife, without fault upon her part, or if he be of unsound mind, the wife may convey or dispose of such property in any manner as if she were sole.

The husband and wife may contract with each other, but all contracts into which they enter are subject to the rules of law as to contracts by and between persons standing in confidential relations;

but the wife shall not, directly or indirectly, become the surety for her husband.

All property of the wife held by her previous to the marriage, or to which she may become entitled after the marriage, in any manner, is the separate property of the wife and is not subject to the liabilities of the husband.

The earnings of the wife are her separate property; but she is not entitled to compensation for services rendered to or for the husband, or to or for the family,

The wife has full legal capacity to contract in writing as if she were sole with the assent or concurrence of the husband expressed in writing.

The wife must sue alone at law or equity, upon all contracts made by or with her, or for the recovery of her separate property, or for injuries to such property, or for its rents, income or profits, or for all injuries to her person or reputation; and upon all contracts made by her, or engagements into which she enters, and for all torts committed by her, she must be sued as if she were sole.

The wife may, with the consent of the husband, expressed in writing, and filed and recorded in the office of the Judge of Probate of the county of their residence and of the county in which the business is carried on, enter into and pursue any lawful trade or business, as if she were sole. But the consent of the husband is not necessary, if he be of unsound mind, or has abandoned his wife, or is a non-resident of the State, or is imprisoned under a conviction for crime.

All property of the wife, whether acquired by descent or inheritance, or gift, devise or bequest, or by contract or conveyance, or by gift from, or contract with the husband, is the separate property of the wife within the meaning of this article, saving and excepting only such property as may be conveyed to an active trustee for her benefit.

Married woman under twenty-one years of age may convey her dower interest in land, if over eighteen years of age.

Marriage of women under twenty-one but over eighteen years of age relieves her of the disabilities of non-age.

Mortgages are executed and acknowledged in the same manner as deeds. May be foreclosed by bill in equity, or, if there be a provision to that effect, by sale under power, upon such default as authorizes a sale. Two years are allowed for redemption in either case. All mortgages are void against creditors or purchasers without notice, unless recorded. Homestead realty can not be mortgaged or otherwise aliened without signature and assent of wife, evidenced by acknowledgment, upon private examination separate and apart from the husband, and certified. All mortgages must be in writing, signed by the mortgagor. Payment of mortgage debt, made before or after maturity of debt, reverts in the mortgagor, or his assigns, the title to the real or personal property mortgaged, if made in the lifetime of the mortgagor; if made after his death, such payment reverts title to personal property in the personal representative, and title to realty in the heirs, devisees or legatees of the mortgagor.

Chattel mortgages must be in writing. When the mortgagor is sued by the mortgagee for possession of the mortgaged property he may defend by showing payment of the debt, or part payment and a tender of the balance, or may pay it after judgment.

Notes and Bills of Exchange. Promissory notes payable in money at a bank or private banking house, or a certain place of payment therein designated, and bills of exchange, are governed by commercial law and are negotiable instruments. All other instruments payable in money at a bank or private banking house, or a certain place of payment therein designated, are governed by the commercial law as to days of grace, protest and notice. All bonds, contracts, and writings, for payment of money or any other thing, or the performance of any act or duty, are assignable by indorsement so as to authorize an action thereon by each successive indorsee. Acceptances of bills of exchange must be in writing, but an unconditional written promise to accept a bill before it is drawn is an actual acceptance, and any person upon whom a bill is drawn and to whom the same is delivered for acceptance who refuses to return it within twenty-four hours after such delivery, or within such other period as the holder may allow to return the bill accepted or non-accepted, is deemed to have accepted it.

Protest. Indorsers of bills of exchange or notes payable in money at a bank or private banking house are charged by the general rules of commercial law. To charge the indorser of paper, not commercial, suit must be brought against the maker to first court. Damages on bills of exchange, whether foreign or inland, protested for non-acceptance or non-payment, are five per cent. on the sum drawn for. But the holder may recover costs of protest incurred previous to and at the time of giving notice of non-payment and legal interest upon the aggregate amount of the principal sum specified in such bill and of the damages thereon.

Suits. Every action, except upon bills of exchange, negotiable instruments, etc., as above, founded on express or implied contract for the payment of money, must be brought in the name of the person really interested, whether he have the legal title or not. [See *Courts*.] Security for costs of suit is required of non-residents of the State, and may be given by acknowledgment signed by security, indorsed on the complaint or writ, approved by the officer issuing the same; or by deposit of money with Clerk of Court in which suit is brought, the amount to be determined by the Court or officer taking the security, and same to be increased from time to time as necessary to cover costs. Upon failure to give such security required by the Court, upon motion therefor, suit dismissed at cost of the attorney directing process to be issued.

Taxes become delinquent on the 31st of December of the year for which they were levied, and the lands may be sold by certain proceedings in the Probate Court commenced in the month of March following. The purchaser of lands sold for delinquent taxes receives from the Collector a certificate of purchase containing a description of the property, the date and amount of assessment, taxes, costs, fees, etc., which after the expiration of two years from the date of the sale is exchangeable for a deed from the Probate Judge—which is *prima facie* evidence of title. Lands sold for taxes may be redeemed within two years by the owner, mortgagee or any person having a beneficial interest therein, by depositing with the Probate Judge of the county in which the lands were sold, the amount of purchase money, with interest at fifteen per cent. per annum, and all taxes which have accrued

subsequent to the sale, and interest thereon at eight per cent. per annum; also all costs and charges. Whenever land is sold for State or county taxes, and from any cause such sale is invalid to pass title to purchaser, sale operates as transfer to purchaser of lien of State or county, or the property for payment of taxes for which sold.

Wills. All wills of real or personal property must be in writing signed by the testator in presence of two witnesses. Unwritten will of personal property valid only when the property does not exceed \$500 in value, and must be made during last sickness at his home. Persons present must be called on to witness that it is testator's will and must be reduced to writing by one of the witnesses within six days. Minor over eighteen may make a will of personal property. No will effective until probated. May be contested in Probate or Chancery Court.

ARIZONA.

BANKING LAW.

(Revised by HERNDON & NORRIS, Attorneys at Law, Prescott.)

The Territorial Auditor is ex-officio bank comptroller. Every savings bank, bank, and banking company incorporated under the laws of the Territory shall procure a license from the bank comptroller. At least once in each year, and as often as the bank comptroller may think necessary, he shall, without previous notice, require every savings bank, banker, or banking association or corporation to report their condition, duly verified, to said bank comptroller. The bank comptroller, on or before the 30th day of June in each year, makes a report to the Governor containing a tabulated statement and synopsis of the several reports which have been filed in his office since his last report, and he shall also report any other proceedings had or done by him showing the condition of the savings bank or banking business and interests in the Territory, which report shall be verified by his affidavit.

The bank comptroller, or some competent expert appointed by him, shall once in each year or oftener, if deemed necessary, without previous notice, visit and make a full examination of each bank and banking institution, and inspect all books, papers, notes, bonds, evidences of debt, and all securities, and ascertain the condition of every such institution and report its condition to the attorney-general. Such bank comptroller or expert must examine under oath any of the officers, agents, or servants of such institution in relation to its affairs; and such officer, agent or servant must answer the questions put to him on oath or be guilty of a misdemeanor.

The bank comptroller must report in writing to the attorney-general the insolvency or unsafe condition of any such institution, and upon his neglect to do so shall be guilty of a felony.

No license shall be granted to any savings bank unless at least 50 per cent. of its loans shall be secured by first mortgage or other prior lien upon real estate within the Territory; and such loans at the date when made hereafter not exceeding 50 per cent. of the market value of the security, except when made for the purpose of facilitating the sale of property owned by the corporation.

And it shall be unlawful for any savings or loan society or savings bank to purchase, invest, or loan its capital, or the money of its depositors, or any part of either, in mining shares or mining stock. Every such savings bank shall make to the comptroller not less than three reports each year, verified by oath of the president or cashier.

Every savings bank, banker, or banking corporation shall make to the bank comptroller not less than three reports during each year under oath. Such reports shall show: *First.* The amount of capital stock and number of shares. *Second.* Names of directors and shares held by each. *Third.* Total amount actually paid in money by stockholders and the total amount of reserve fund, if any. *Fourth.* The total amount due to depositors. *Fifth.* The total amount and character of all liabilities. *Sixth.* The value of its real estate. *Seventh.* The amount loaned on real estate. *Eighth.* The amount invested in bonds, designating the particular class and amount. *Ninth.* The amount loaned on stocks and bonds. *Tenth.* The amount loaned on other securities. *Eleventh.* The actual amount of money on hand or deposited in any other bank or place, and the amount in each place. *Twelfth.* Any property held or any amount of money loaned, deposited, invested, or placed not otherwise enumerated.

Every bank, banker, or banking association, except savings banks, carrying on business under this act, shall at all times have on hand an amount equal to at least 15 per centum of the aggregate amount of its deposits, and of any sums or amounts owing on account of borrowed money. Failure to do so authorizes the bank comptroller to declare said bank to be insolvent.

The bank comptroller shall make a general report of the business of his office to the legislature at each session.

The bank comptroller may issue subpoenas for witnesses to attend and testify before him in any examination authorized by this act.

COMMERCIAL LAW.

Acknowledgments of instruments for record may be made without the Territory, but within the United States or Territories, before Clerk of some Court of Record having a seal, Commissioner of Deeds for Arizona, Notary Public; without the United States, before a Minister, Commissioner, or Charge d'Affaires, Consul-General, Consul, Vice-Consul, Commercial Agent, Vice Commercial Agent, Deputy-Consul, or Consular Agent of the United States, Notary Public.

Affidavits. Whenever any oath or affidavit is or may be required or authorized by any law of this Territory, the same may be taken in any other State, Territory, or District of the United States before any Judge or Commissioner of a Court of Record, Master in Chancery, Notary Public authorized by the law of such State, Territory, or District to administer oaths.

Arrest in civil cases abolished.

Attachment will issue in the action upon a contract, express or implied, for the direct payment of money, where the contract is made or is payable in this Territory, and is not secured by any mortgage or lien upon real or personal property, or any pledge of personal property, and must be on bond in amount equal to debt sued for, and affidavit of plaintiff that defendant is indebted to plaintiff, and the amount of the demand; that attachment is not sought for wrongful or malicious purpose, and the action is not prosecuted to hinder or delay any creditor of defendant. Affidavit must state further that debt is due. A non-resident or foreign corporation may also be attached upon any indebtedness due.

Chattel Mortgages, to be valid as to creditors and as to purchasers without notice, must be accompanied by immediate delivery, followed by actual and continued change of possession of property, unless the same or a true copy thereof is filed in the County Recorder's office of county where property is situated and in county of residence of mortgagor. Mortgages and deeds of trust shall be foreclosed in the District Court unless power of sale is given expressly in the instrument. In such case sale may be had according to the terms of such instrument. Judgment creditor in foreclosure has power to redeem in six months after sale.

Claims against Estates of Deceased Persons. The executor or administrator, immediately after his appointment, must cause to be published in some newspaper of the County a notice to the creditors of the decedent requiring all persons having claims against decedent to exhibit them, with the necessary vouchers, to the executor or administrator, at the place and within the time mentioned in the notice. The time expressed in the notice must be ten months from its first publication, when the estate exceeds in value \$3,000, and four months when it is less than that sum. Every claim when presented to the administrator for allowance must be supported by the affidavit of the claimant, or some one in his behalf, that the amount is justly due, that no payments have been made thereon which are not credited, and that there are no offsets to the same to the knowledge of affiant. If the claim be not due when presented or be contingent, the particulars of such claim must be stated. When the affidavit is made by a person other than the claimant he must set forth in the affidavit the reasons why it is not made by the claimant. The oath may be taken before any officer authorized to administer oaths.

Corporations.—Any number of persons may associate themselves together and become incorporated for the transaction of any business and shall have power: (1.) To have perpetual succession. (2.) To sue and be sued by the corporate name. (3.) To have a common seal and alter the same at pleasure. (4.) To render the interest of stockholders transferable and prescribe the mode of making such transfers. (5.) To exempt the private property of members from the liability for corporate debts. (6.) To make contracts, acquire and transfer property. (7.) To establish by-laws, to make rules and regulations for the management of their affairs. Before commencing any business except that of their own organization, they must adopt articles of incorporation which shall be signed and acknowledged by them, and be recorded in the office of the County Recorder of the County where the principal place of business is to be. The articles of incorporation must contain: (1.) The name of corporators, the name of corporation, and its principal place of transacting business. (2.) The general nature of the business proposed to be transacted. (3.) The amount of capital stock authorized and the times when and conditions upon which it is to be paid in. (4.) The time of the commencement and termination of the corporation. (5.) By what officers or persons the affairs of the corporation are to be conducted, and the times at which they are to be elected. (6.) The highest amount of indebtedness or liability to which the corporation is at any time to subject itself. (7.) Whether private property is to be exempt from corporate debts. Unless so exempted stockholders are liable for the debts of the corporation, in the proportion which their stock bears to the whole capital stock. They must also publish for at least six days in some newspaper published in the county where the principal business is located, or works established, if there be one, if not then in some newspaper having a general circulation in said county, a copy of the articles of incorporation. The corporation may commence business as soon as the articles are filed for record in the office of the County Recorder. Corporations for the construction of any work of internal improvement may be formed to endure for fifty years; those formed for other purposes shall not exceed twenty-five years in duration; but in either case they may be renewed from time to time for a period not greater than was at first permissible when three-fourths of the votes cast at any regular election for that purpose shall be in favor of such renewal. Transfer of stock shall not be valid except as between the parties thereto until regularly entered upon the books of the company. Corporations shall cease to exist by non-user of its franchise for five years at any one time.

Corporations (Foreign). Any company incorporated under the laws of any other State or Territory, for any enterprise, business, pursuit, or occupation proposed to be carried on, or the principal office or place of business is proposed to be located within this Territory, shall make and file certified and duly authenticated copies of their articles of incorporation with the Secretary of this Territory and the County Recorder of the County in which its business or principal office is located. It shall be the duty of any association, company, or corporation organized or incorporated under the laws of any other State or Territory, or foreign country, for the purposes of engaging in or carrying on any enterprise, business, pursuit, or occupation, or acquiring, holding, or disposing of any property within this Territory, to file with the Secretary of this Territory and the County Recorder of the County in which such enterprise, business, pursuit, or occupation is proposed to be located, or is located, the lawful appointment of an agent, upon whom all notices and processes, including service of summons, may be served, and when so served shall be deemed taken and held to be a lawful personal service on such association, company, or corporation for all purposes whatsoever. No corporation such as is mentioned in Section 1 of this chapter shall transact any business whatsoever in this Territory until and unless it shall have first filed its articles of incorporation and appointment of an agent as required in the two preceding sections, and every act done by it prior to the filing thereof shall be utterly void. The appointment of such agent shall be embodied in a resolution duly adopted by such company, and shall be

signed by the President, Manager, or Secretary thereof. All such agents shall be bona fide residents of the county in which their appointments shall be filed, and the full name and residence of each agent shall be stated in the resolution appointing him.

Days of Grace. Three days of grace shall be allowed on all bills of exchange or promissory, assignable, or negotiable by law.

Depositions. Depositions of witnesses may be taken in the following cases: (1.) When the witness is a female. (2.) When by reason of age, infirmity, sickness, or official duty it is probable that the witness will be unable to attend court. (3.) When the witness resides without the Territory or County in which the suit is pending, or more than fifty miles from the place of trial. (4.) When the witness has left, or is about to leave, the Territory or County in which the suit is pending, and will not probably be present at the trial. (5.) When the party desires to perpetuate the testimony of the witness. Either party wishing to take the deposition shall file with the Clerk or Justice of the Peace, as the case may be, a notice of his intention to apply for a commission to take the answers of the witness to interrogatories attached to such notice. The notice shall state the name and residence of the witness, or the place where he is to be found, and the title of the suit; and a copy thereof, and of the attached interrogatories, shall be served upon the adverse party, or his attorney, five days before the issuance of the commission. Where the witness resides in the County, the notice alone shall be given without the interrogatories, and witness may be examined orally. The commission shall be addressed to the following officers, either of whom may execute and return the same: (1.) If the witness be alleged to reside or be within the Territory, to any Clerk of the District Court, or any Notary Public of the proper County. (2.) If the witness be alleged to reside or be without the Territory, and within the United States, to the Clerk of a Court of Record having a seal, any Notary Public, or any Commissioner of Deeds duly appointed under the laws of this Territory, within some other State or Territory. (3.) If the witness be alleged to reside or be without the United States, to any Notary Public, or any Minister, Commissioner, or Charge d'Affaires of the United States, resident in and accredited to the country where the deposition may be taken, or any Consul-General, Consul, Vice Consul, Commercial Agent, Vice-Commercial Agent, Deputy Consul, or Consular Agent of the United States resident in such country. Officers receiving such commission shall have power to subpoena the witness to appear before him and answer interrogatories at a time and place named, and if the witness fails to appear or refuses to answer such officer, such officer shall have power to fine and imprison him in like manner as District Courts are empowered to do in like cases. The officer shall proceed to take the answers of the witness in writing, and the same shall be signed and sworn to by the witness. The officer shall certify that the answers of the witness were signed and sworn to before him, and shall seal them up in an envelope, together with the commission and interrogatories and cross interrogatories, if any, and shall write his name across the seal and indorse on the envelope the names of the parties to the suit, and of the witnesses, and shall direct the package to the Clerk of the Court or Justice of the Peace, as the case may be. The officer taking such deposition shall have authority to summon and swear an interpreter, if necessary. Depositions may be returned to the Court either by mail or by hand. If sent by mail, the Postmaster or his deputy shall indorse thereon that he received them from the hands of the officer before whom they were taken. Whenever one party may file interrogatories, the opposite party may file cross interrogatories at any time before the commission issues, and when cross interrogatories have been filed and answered, either party has a right to use the deposition on the trial.

Exemptions. Every head of a family is entitled to homestead not exceeding \$4,000 in value and \$1,000 worth of personal property, to be selected by himself.

Holidays. Legal holidays are January 1, February 22, July 4, Thanksgiving, May 30, December 25, every Sunday, and general Territorial election day, or any special election day that may be called by the Governor. Any promissory note, bank check, bill of exchange, acceptance, or other negotiable instrument, made payable at any future period, which falls due on any of these days mentioned shall be considered due and collectible on the day following; and if January 1, February 22, July 4, December 25, or May 30 shall fall upon Sunday, then the Monday following shall be considered as a legal holiday.

Insolvent and Assignment Laws. A general assignment by insolvent debtor must be recorded, have annexed an inventory, under oath, of all creditors, their residence, sum and consideration due each, how evidenced, with statement of debtors' entire estate, giving values. Insolvent may make assignments for benefit of such creditors only as will accept their *pro rata* in discharge of all liability. Any creditor having reason to believe that such debtor has concealed his property, may have him summoned before District or County Judge, and examined under oath, etc. Any attempted preference of one or more creditors shall be deemed fraudulent and without effect. Concealment by debtor of his property from assignee, or transfer of property previous to and in contemplation of assignment, with intent to defraud his creditors, is made a felony.

Interest. Legal, 7 per cent. and by contract any rate may be fixed. No usury laws in the Territory. All notes in writing, made and signed by any person, whereby he shall promise to pay to any other person, or to his order, or to the order of any other person, or unto bearer, any sum of money therein mentioned, shall be due and payable as therein expressed, and shall have the same effect and be negotiable in like manner as inland bills of exchange, according to the customs of merchants. (Inland and foreign bills governed by mercantile law.) The payees and indorsees of every such note payable to them or their order, and the holders of every such note payable to bearer, may maintain actions for the sums of money therein mentioned against the makers and indorsers of the same respectively, in like manner as in cases of inland bills of exchange, and not otherwise. To charge a person within this Territory as an acceptor on a bill of exchange, his acceptance must be in writing, signed by himself or his lawful agent. Grace on all bills. Damages for protested bills, 10 per cent.

Judgments. Judgments of all courts become a lien on all real property of the judgment debtor when an abstract of the same is filed in the office of the County Recorder of the County where the real estate is situate.

Licenses. Commercial travelers are required by statute to take out a license, but this legislation has been declared illegal by the courts and is not enforced.

Liens. All persons who may labor or furnish materials in the construction or repairing of any building, superstructure, or other improvement shall have a lien on the same, and on the lot of land whereon the same is situate and connected therewith. To fix and secure the lien, the person performing labor or furnishing material must, within ninety days after the completion of such labor or the furnishing of materials, file his contract in the office of the County Recorder where the property is situate. If the contract be verbal, a duplicate copy of the bill of particulars should be made under oath, and one delivered to the Recorder and filed for record and the other furnished the party owing the debt or his agent. Such liens are to be foreclosed by suit within six months after filing the same in the Recorder's office.

Limitations. Actions for the recovery of real estate must be commenced in five years. Other actions must be brought as follows: Within one year: (1) Actions for injuries done to the person of another; (2) malicious prosecution, false imprisonment, injuries to character or reputation by libel or slander; (3) damages for seduction or breach of promise of marriage; (4) injuries to person of another where death ensued from such injuries. Within two years: (1) Trespass; (2) action for trover and conversion; (3) claim and delivery of personal property; (4) actions upon judgments and decrees of courts without the Territory, and upon instruments in writing executed without the Territory. Within three years: (1) Actions for debt where the indebtedness is not evidenced by contract in writing; (2) actions upon stated or open accounts. Within four years: (1) Action for the penalty or for damages on the penal clause of a bond to convey real estate; (2) actions by one partner against a copartner for settlement of the partnership account, or upon mutual and current accounts concerning the trade of merchandise between merchant and merchant, their factors or agents, and the cause of action shall be considered as having accrued on a cessation of the dealings in which they were interested together. Within five years: Actions for debt where the indebtedness is evidenced by or founded upon any contract in writing executed within this Territory.

Rights of Married Persons. All property, both real and personal, of the husband owned or claimed by him before marriage and that acquired afterward by gift, devise, or descent, as also the increase, rents, issues, and profits of the same, shall be his separate property, and all property, both real and personal, of the wife owned or claimed by her before marriage and that acquired afterward by gift, devise, or descent, as also the increase, rents, issues, and profits of the same, shall be her separate property. The earning and accumulations of the wife and her minor children in her custody while she has lived or may live separate and apart from her husband, shall also be the separate property of the wife. All property acquired by either husband or wife during the marriage, except that which is acquired by gift, devise, or descent, or earned by the wife and her minor children while she has lived or may live separate and apart from her husband, shall be deemed the common property of the husband and wife, and during the coverture may be disposed of by the husband only. Married women of the age of twenty-one years and upwards shall have the whole and exclusive control of their separate property, and the same shall not be liable for the debts, obligations, or engagements of the husband, and may be contracted, sold, transferred, mortgaged, conveyed, devised, or bequeathed by them in the same manner and with like effect as if they were not married. Married women of the age of twenty-one years and upwards shall have the same legal rights as men of the age of twenty-one years and upwards, except the right of suffrage and of holding office, and except the right to make contracts binding the common property of the husband and wife; and shall be subject to the same legal liabilities as men of the age of twenty-one years and upwards, but no part of this section shall be so construed as to prohibit women from voting at school elections or holding office as school trustees as now provided by law. The district court shall have power to hear and determine suits for the dissolution of marriage, where the causes alleged therefor shall be natural or incurable impotency of the body at the time of entering into the marriage contract, or any other impediment that renders such contract void, and shall have power and authority to decree the marriage to be null and void.

Wills. Every person aged twenty-one years or upward, or who may be or may have been lawfully married, being of sound mind, shall have power to make a last will and testament. Wills must be in writing (though a typewritten will be undoubtedly valid), signed by the testator, or by some one for him, in his presence and by his direction, and must be attested by two or more credible witnesses above the age of fourteen years, in the presence of each other and the testator. When the will is wholly written by the testator, no witnesses are necessary. Nuncupative wills may be made when property willed does not exceed in value fifty dollars, unless it be proved by three credible witnesses that the testator called on some person to take notice and bear testimony that such is his will, and that the testimony, or the substance thereof, was committed to writing within six days after the making of such will; in such case the amount willed is not limited.

ARKANSAS.

BANKING LAW.

(Revised by C. B. MOORE, Attorney at Law, Little Rock.)

There are no constitutional or statutory provisions specially relating to banks. They are incorporated under a general law, provided for all incorporated companies, by filing articles of incorporation in the office of the Secretary of State. There is no system of official examination, and no reports are made, except statement required to be made to Assessor for the purpose of taxation.

COMMERCIAL LAW.

Acknowledgments of deeds within the State may be taken before the Supreme Court, the Circuit Court, or either of the Judges thereof, or the Clerk of any court of record, or any Justice of the Peace or Notary Public. Anywhere else within the United States, or their Territories, before any Federal, State or Territorial Court having a seal, or the Clerk of any such Court, Notary Public, Mayor of any city or town, or chief officer of any city or town having a seal, or a Commissioner appointed by the Governor of this State. Out of the United States, before any Court having a seal, any Mayor or chief officer of any city or town having a seal, or any officer of any foreign country, authorized by the laws of such country to take probate of conveyance of real estate of his own country, having an official seal, or before the Clerk of any court of record of the Indian country, embracing the five civilized tribes.

Assignments and Insolvency. Assignments for the benefit of creditors may be made with or without preference, with the exception that no preferences are allowed among creditors of *insolvent corporations*, except for wages and salaries of laborers and employes. Assignee must give bond in double the amount of property assigned, and must sell within 120 days, at auction, all the property assigned to him for the payment of debts. Proof of fraud on the part of assignor is sufficient to invalidate the assignment, whether the assignee knew of it or not.

Attachment. Plaintiff in civil action, arising on contract, may at or after commencement thereof have attachment against property of defendant where said defendant is non-resident of the State or a foreign corporation, or has been absent four months from the State, or has departed from it with intent to defraud his creditors, or has left the county of his residence to avoid service of a summons, or conceals himself so that a summons can not be served upon him, or has transferred, sold, conveyed or removed his property out of the State with fraudulent intent, or is about to sell, remove or dispose of the same with such fraudulent intent, not leaving enough to pay all his debts. Under a writ of attachment debts due the defendant may be garnished. Plaintiff must give bond with sureties, conditioned to pay all damages defendant may sustain if the order of attachment is wrongfully obtained.

Corporations are organized under a general incorporation law. Stockholders are liable only for the amount of their stock. Corporations for manufacturing or business purposes may be formed by any number of persons not less than three, by entering into articles of association for that purpose. The articles of association, together with a certificate, sworn to by the Directors, and showing compliance with the articles, are to be filed with the Secretary of State and with the Clerk of the County in which the corporation is to have its place of business. The capital stock has to be divided into shares of \$25 each, and the number of shares is fixed in the articles of association, but may be increased at a meeting of the stockholders specially called for that purpose. The directors must be three in number at least, and chosen annually, but a failure to hold the annual election does not dissolve the corporation. The directors elect the president, who must be one of their number, and the other officers. The secretary and treasurer must reside in the State. Corporations may hold such lands as are necessary for corporate purposes, and may receive land in payment of debts. The president and secretary are required to file in the office of the County Clerk annual statements, showing the financial condition of the corporation, and upon failure to do so are liable for all the corporate debts. If the directors declare a dividend when the corporation is insolvent, or one which will make it insolvent, they become liable for the debts. Corporations have the power to sell the stock of subscribers who are in default in the payment of their stock subscriptions. The taxes on the stock are assessed against and paid by the stockholders. A fee of \$25 is to be paid to the Secretary of State for filing the articles of association. Railroads are incorporated under a separate law. Foreign corporations, before doing business in this State, are required to file with the Secretary of State a certificate under the hand of the president and corporate seal, appointing an agent within the State upon whom service may be had. In case of a failure to do so, all their contracts are void as to them, but enforceable by the other party.

Courts. Terms and Jurisdiction. Circuit Courts with original jurisdiction over all civil cases exceeding \$100, excluding interest, are held twice a year in each county. In Pulaski County, in which Little Rock is situated, suits may be commenced at any time, and if service is had twenty days before the term adjourns, defense must be filed, or judgment by default may be taken. Justices have original jurisdiction in matters of contract up to \$100, and concurrent up to \$300, excluding interest. Where there are two or more defendants, living in different counties, suit may be brought before a Justice of the Peace in the county in which any one of the defendants resides, and summons issued to the other counties for the other defendant or defendants. Courts of Common Pleas are authorized by the constitution, and are established in a few counties, with specially defined jurisdiction in matters of contract, etc., varying from \$500 to \$1,000.

Days of Grace. The remedy on bills of exchange, foreign and inland, and on promissory notes, is governed by the rules of the law merchant as to days of grace, protest, and notice.

Depositions. Depositions may be used on the trial of all issues in any action where the witness does not reside in the county where the action is pending, or is absent from the State, or resides more than thirty miles from the place where the court sits in which the action is pending, and may be taken *de bene esse*, or upon reasonable notice to the adverse party, or upon interrogatories and commission. Reasonable notice is one day for each thirty miles of travel, and one day for preparation, where the distance is one hundred miles or less, and two days when it is more. Where the distance exceeds fifty miles, and the usual mode of travel for the whole or part of the distance is by steamboat, railway, or other public conveyance, the time ordinarily required by such mode of travel, with the days of preparation shall be deemed sufficient in the notice. Where more than three days' notice has been given to take a deposition out of the State, the party may, by notice to adverse party, or his attorney, served in one day after service of the first notice, require the deposition to be taken upon interro-

gatories. Where a deposition is taken upon interrogatories, neither the party nor his agent or attorney shall be present, unless both parties are present or represented, or unless the opposite party, or his agent or attorney, has been seasonably notified of the time and place of the examination, or the party attending has been notified by the adverse party to attend. The court has power to order that depositions taken in another county in the State shall be taken on interrogatories. The certificate of the officer must state the time and place of taking the deposition; that the witness was duly sworn before he gave his testimony, and that his testimony was written, and read to, and subscribed by him, in the presence of the officer; and also state by whom it was written, and which of the parties, in person, or by agent or attorney, was present at the examination of the witness. When the depositions are completed, they shall be sealed up by the officer, and directed to the clerk of the court in which the action is pending, with an indorsement thereon, showing them to be depositions, and the style of the case, and either delivered or mailed to the clerk by the officer taking them; except that depositions taken out of the State, sealed and directed as above, may be delivered to the party taking the same, his agent or attorney, to be by him delivered, such person so delivering them taking an oath that they have not been opened by him, or other person to his knowledge. The statement of the witness must be written in the presence of the officer taking it, either by the witness or the officer. Depositions may be taken in the State before any judge, or clerk of record, or justice of the peace, mayor of a city, or notary public. Depositions may be taken out of this State before a commissioner appointed by the Governor thereof, a judge of a court, a justice of the peace, mayor of a city, notary public, or any other person empowered by a commission directed to him, by consent of the parties or by order of the court. Where a deposition is taken out of the State before an officer having no seal, his official character should be certified by a clerk of a court of record of the county.

Exemptions. Homestead of married person or head of a family in country not exceeding 160 acres, with improvements, not to exceed \$2,500, but in no case can the homestead be reduced below 80 acres, without regard to value. In any town, city or village, homestead of one acre with improvements, of total value of \$2,500, not reducible below one fourth of an acre without regard to value. Personal property of married person or head of a family, \$500 besides wearing apparel; unmarried, or not head of a family, \$200 and wearing apparel. No conveyance, mortgage or other instrument affecting homestead of a married man (except for taxes, laborers' and mechanics' lien) is valid unless the wife joins in, and acknowledges same. Debtor may select and claim his homestead, before or after sale on execution, whenever suit is brought for possession. If he neglects to claim it, his wife may do so.

Executions are returnable sixty days from date from the Circuit Court, and thirty days from Justice's Court. Where execution from Circuit Court has not been stayed, sales are made on a credit of three months on bond and security, said bond having the force of a judgment if forfeited. Execution may be stayed for six months by defendant giving bond with security for judgment, interest, and costs, which bond has the force and effect of a judgment. Sales under Justice of Peace execution are for cash in hand.

Interest. Legal rate is six per cent., but contracts may be made for any rate not exceeding ten per cent. Interest begins to run on an open account from the time payment is unreasonably withheld. Judgments bear the same interest as contract sued on, if in such instrument the words "until paid" are used concerning the payment of interest. But if the words *per annum* alone are used, then, regardless of the rate stipulated, the judgment would draw six per cent. Usury forfeits principal and interest.

Judgments and decrees of Circuit Courts are liens on real estate of defendant within the county in which the Court is held and on personal property from the time execution is received by the Sheriff. Judgments of Justices of the Peace become a lien on real estate by filing a transcript with the Clerk of the Court, and are a lien on personal property from the time execution is received by the constable. Executions may be issued on judgment until it is barred by the statute of limitations. Judgments are rendered at first term of a court of record if no defense is made. Executions can not issue on Justice's judgment after a lapse of five years. If the judgment is over ten dollars, exclusive of costs, plaintiff may, within five years file transcript of judgment in the Circuit Clerk's office, and it then has the force and effect of a Circuit Court judgment.

Limitations. Accounts, three years; notes, five years; judgments, ten years; sealed instruments executed prior to March 29th, 1889, ten years; executed after that date, five years. A written acknowledgment of indebtedness and promise to pay, or a part payment, revives the debt. Limitations of actions for the recovery of real estate, seven years. Usual saving clause in favor of infants, married women, and insane persons, but not as to non-residents. Suits to foreclose mortgages or trust deeds are barred unless brought within the period of limitation fixed by law for suit on the debt or liability for the security of which they are given. A payment made on the debt before it is barred, will not revive it, nor extend period of limitation, so as to affect rights of third parties, unless mortgagee, trustee, or beneficiary prior to expiration of limitation, endorses memorandum and date of such payment on margin of the record of the mortgage or trust deed; where the debt would be barred in less than one year from March 25th, 1889, mortgagee is allowed one year from that date to bring an action to enforce his lien.

Married Women. Married women have the same absolute and unqualified right in property of every description, when acquired, as *femmes sole*, and the same is not liable for debts or contracts of the husband. To entitle a married woman to her right as to personal property, she must cause such separate property to be recorded in her name in the county of her residence. She may carry on business on her sole and separate account, and she may sue or be sued alone on account of her separate property, business, or services; and she may contract and bind herself in respect to such separate property or business, and no such contract shall be binding on her husband, or render him or his property in any way liable therefor. She may convey property by agent duly appointed, by power of attorney. In all actions where a married woman is a party—except as to such separate property or business—her hus-

band must be joined with her in the suit. Widow takes dower in one-third of all lands of which the husband was seized of an estate of inheritance during marriage, unless legally relinquished; also an absolute one-third of all personalty. Where there are no children she takes one-half of realty in fee simple when the estate is a new acquisition, and one-half of the personal estate absolutely, as against collateral heirs; but as against creditors she takes one-third of the real estate in fee simple, and one-third of the personalty absolutely. But if the real estate is ancestral, she takes life estate in one-half as against collateral heirs and one-third as against creditors.

[NOTE.—Our Supreme Court has decided that a wife can not form a business partnership with her husband. Nor can she release dower in favor of her husband. And husband and wife are incapable of contracting with each other.]

Mortgages are acknowledged same as deeds, and are not liens until filed for record, though good between the parties. May be foreclosed by complaint in equity. Mortgages for real estate to be recorded in the county or counties where the lands lie. Chattel mortgages must be acknowledged as other mortgages. May be filed and not recorded at option of mortgagee, and are liens from time of filing for one year. If the mortgagor of personal property is a non-resident of the State, chattel mortgage must be recorded, or "filed and not recorded," in the county in which the property is situated at the time the mortgage is executed. When marked "filed" by the Recorder, the mortgage is a lien from date of filing. Trust deeds must be acknowledged and filed same as mortgages. Before sale under mortgages, the property must be appraised, and must bring two-thirds of the appraised value, or it is reserved from sale twelve months, if real estate, and sixty days if personal property. At second offering it is sold for what it will bring. The mortgagor is not permitted to waive his right of appraisal or redemption. It is a misdemeanor, or punishable by fine, to sell or remove beyond the limits of the county personal property on which mortgage rests. Mortgage given on a crop to be planted creates no lien, unless the crop is planted within twelve months after execution of the mortgage.

Notes and Bills of Exchange. Commercial paper may be defined in general terms as that species of contracts used in the transaction of business as a representative of value, consisting of promissory notes, bills of exchange and checks etc. There is no law requiring it to be paid at a bank, or any other fixed place. Foreign and inland bills of exchange are governed by mercantile law as to days of grace, protest and notice. All indorsers or assignors of any instrument in writing assignable by law, which by its terms is payable "without discount or defalcation," may be notified of non-payment or protest of such instrument, and are equally liable with the maker, obligee or payee, and may be sued for the same at the same time with the maker, obligee or payee thereof, or may be sued separately. The payer and drawer of notes and bills of exchange for any "patent right" or "patent right territory" may make all defenses against assignee, indorser, holder, or purchaser of such notes, draft, or bill of exchange, that could have been made against original payee or drawee, whether such note, draft, or bill of exchange be assigned or transferred before maturity or not. Sunday, Christmas and July 4th are the only legal holidays in this State. Bills of exchange, notes, etc., falling due on either of these holidays are payable on the next day preceding, and may be noted and protested on such next preceding day; but notice and protest the next day after the holiday is valid and effectual.

Suit in the Circuit Court is commenced by filing written complaint signed by the party or his attorney, verified by affidavit of the party, but such verification is not required where the complaint is founded on a bill, note, or other written obligation. The first term is trial term where the summons has been served within the county within which the action is brought, or in adjoining county ten days before the beginning of term—twenty days elsewhere in the State, or sixty days outside the State.

Taxes must be paid between the 1st Monday in January and the 10th day of April in each year. If not paid within the time required by law twenty-five per cent. penalty is added, and lands are advertised for two weeks and sold. Lands may be redeemed by the owner—or agent or other person for the owner—within two years, by payment of purchase money, penalty, and costs, and ten per cent. interest per annum, and by insane persons, persons in confinement, and minors, within two years after expiration of disabilities. Sale conveys absolute title, subject to such redemption.

Wills. Every person over twenty-one years old may devise realty and personalty, and all persons over eighteen may bequeath goods and chattels by last will and testament. Every will must be executed as follows: (1.) It must be subscribed by the testator at the end of the will, or by some person for him at his request. (2.) Such subscription shall be made by the testator in the presence of each of the attesting witnesses, or shall be acknowledged by him to have been so made to each of the attesting witnesses. (3.) At the time of such subscribing or acknowledgment the testator shall declare the instrument so subscribed to be his last will and testament. (4.) There shall be at least two attesting witnesses, each of whom shall sign his name as a witness at the end of the will at the request of the testator. (5.) Where the entire body and signature of the will are in the handwriting of the testator it may be established by the unimpeachable evidence of at least three disinterested witnesses to the handwriting and signature of the testator without subscribing witnesses; but no such will shall be pleaded in bar of one subscribed in due form. Nuncupative wills may be made during last illness, and must be proved by two witnesses, and are not good where the estate bequeathed exceeds five hundred dollars. A copy of a foreign will may be admitted to probate in this State if it appears by the copy of the probate in another State that it was so executed as to be a valid will of lands in this State by the laws thereof. Wills are proved and recorded in the office of the Clerk of the Probate Court of the county in which the testator resided at the time of his death. If he had no known place of residence in this State, and land is devised, then in the county where the land, or the greater part thereof, lies. If no land is devised, then in the county where he died, or that in which his estate, or the greater part thereof, shall lie, or where there may be any debt or demand owing to him.

CALIFORNIA.

BANKING LAW.

(Prepared and Revised by DORN & DORN, Attorneys and Counselors at Law, San Francisco.)

The State constitution provides that the legislature shall have no power to pass any act granting any charter for banking purposes, but corporations or associations may be formed for such purposes under general laws.

Private corporations may be formed for any purpose for which individuals may lawfully associate themselves.

Every corporation doing a banking business in this State must keep in its office, in a place accessible to the stockholders, depositors, and creditors, a book containing a list of all the stockholders in such corporation, and the number of shares of stock held by each, and every such corporation must keep posted in its office, in a conspicuous place, accessible to the public generally, a notice, signed by the president and secretary, showing: (1.) The names of the directors of such corporation. (2.) The number and value of shares of stock held by each director.

Every corporation and all and every person doing a banking business shall semi-annually, in January and July, publish, in at least one newspaper published in the county in which is situated the principal office of such corporation or in which said person or persons may reside, a sworn statement, verified, of the amount of the capital actually paid in; provided that nothing shall be deemed capital actually paid in except money *bona fide* paid into the treasury of such bank. Said statement must also be filed for record in the recorder's office of said county. Every bank shall, in addition, in January and July, publish and record a like sworn statement of the actual condition and value of its assets and liabilities and where situated.

The directors of every such corporation making false statements as above, shall be liable generally and severally to any person thereafter dealing with such corporation. Where any of such banking corporations shall be foreign the statements above provided for shall be verified by the agent or manager of the business of such corporation, resident within this State. No corporation and no person or persons who fail to comply with the provisions of this law shall maintain or prosecute any action or proceeding in any of the courts of this State, until they shall have first duly filed the statements above provided for, and in all other respects complied with the provisions of the law.

No corporation can use the name or transact the business of a savings bank, or bank, or banking corporation, without first procuring from the banking commissioner a license for one year from its date. It is the duty of the banking commissioner to personally make a full examination of each bank, or similar institution, for the purpose of ascertaining its condition and solvency; and if they find that such institution is violating its charter or is conducting business in an unsafe manner, they shall communicate with the attorney-general, who shall immediately commence suit to enjoin and prohibit it from transacting any further business.

There is no limitation upon the right to maintain an action for the recovery of money or other property deposited with any bank, banker, trust company, or savings and loan society.

For liability of stockholders, etc., see *Corporations*.

COMMERCIAL LAW.

Actions (See Attachment and Arrest.)

All civil actions, except cases of which the Supreme Court has original jurisdiction, are commenced by filing in the office of the county clerk a complaint, upon which a summons must, within one year, be issued by the clerk. A copy of the summons and complaint must be served upon each defendant. If the defendant is served in the county where the action is brought, he has ten days within which to plead to the complaint; if served out of the county and within the State, he has thirty days.

In all actions *in rem*, and in all actions where the defendant is a foreign corporation having no managing or business agent, cashier, or secretary within the State, or in actions which relate to, or the subject of which is real or personal property in this State, in which a person defendant has or claims a lien or interest actual or contingent, or in which the relief demanded consists wholly or in part in excluding such person from any interest therein, the defendants may be served by publication of the summons, in case they reside out of the State or can not be found therein. The summons must be published at least once a week for two months in a newspaper of the county before the service is complete.

Acknowledgments. (See Conveyances.)

Administration of Decedents' Estates. Letters testamentary are granted by the Superior Court after a will is probated, to the executor named in the will. He must execute his trust as provided in the will under the supervision of the court. He must file bonds, unless dispensed with by will.

Letters of administration are issued, in cases of persons dying intestate, by the same court in the following order: 1. To surviving husband or wife, or some person named by either. 2. The children. 3. The father or mother. 4. The brothers. 5. Sisters. 6. Grandchildren. 7. Next of kin. 8. The public administrator. 9. Creditors. If any person entitled to administration is a minor or an incompetent person, letters must be granted to his or her guardian or any other person entitled to letters of administration in the discretion of the court. Administrators are required to give security.

Affidavits taken in any other State to be used in this State may be taken before a commissioner appointed by the governor of this State to take affidavits and depositions in such other State, or before any notary public in any other State, or before any judge or clerk of a court of record having a seal. An affidavit taken in a foreign country to be used in this State may be taken before an ambassador, minister, vice-consul, or consular agent

of the United States, or before a judge of a court of record having a seal in such foreign country. If taken before the judge of a court of another State or in a foreign country the genuineness of the signature of the judge, the existence of the court and the fact that such judge is a member thereof must be certified by the clerk of the court, under the seal thereof.

Affidavits to be used in this State may be also taken before a notary public and all other officers authorized to administer oaths being or residing in this State.

Aliens have the same right as citizens to take hold and dispose of property.

Appeals. The right of appeal exists from any judgment or final order, after judgment made by the Superior Court to the Supreme Court. Writs of injunction, review, habeas corpus, and mandate, are issued by the courts of record of the State. The appeal must be taken within a year after judgment, if the appeal is taken upon the judgment roll and from the judgment. If upon a bill of exceptions, must be taken within sixty days after final judgment. If upon a statement upon motion for a new trial, within sixty days after the order granting or refusing a new trial; and the appeal is from such order, and may be from the judgment at the same time.

An appeal may be taken from the judgment of a justice's or police court to the Superior Court of the county within thirty days after the rendition of the judgment, and is taken by filing a notice with the judge and serving the same on the adverse party. If the appeal is upon questions of law alone, a statement of the case must be filed within ten days and thereafter settled. If the appeal is on questions of fact, or on questions of both law and fact, no statement is necessary, but the action is tried anew in the Superior Court.

Arrest. In an action for the recovery of money upon a contract, express or implied, when the defendant is about to depart from the State with the intent to defraud his creditors, he may be arrested; also in an action for a fine or penalty, or for money or other property embezzled or fraudulently misapplied by a public officer, officer of a corporation, or an attorney, factor, broker, agent, or clerk in the course of his employment, or by any person in a fiduciary capacity; also in cases of misconduct, neglect in office, or any professional employment or wilful violation of duty; also in actions to recover the possession of personal property where it has been concealed or removed or disposed of to prevent its being found; also in cases where the defendant has been guilty of a fraud in contracting the debt or obligation for which action is brought; or in concealing or disposing of property; also when he has removed or disposed of his property or is about to do so with intent to defraud creditors. The order of arrest is made by the judge of the court when it appears that a cause exists therefor, by affidavit of plaintiff or some other person. The judge must require a written undertaking, with sufficient sureties in a sum not less than \$500, to the effect that plaintiff will pay all costs and damages if the arrest be wrongful.

Persons may be arrested also in proceedings as for contempt to enforce civil remedies. Administrators, executors, and guardians of the estates of minors may be required to give a strict account of property or money in their hands, held by them in that capacity, and in case of refusal may be arrested and imprisoned, where property or money has been embezzled or fraudulently converted by them.

Assignments for the Benefit of Creditors. An insolvent debtor may in good faith execute an assignment of property in trust for the satisfaction of his creditors. Within twenty days thereafter the assignor must make and file with the county recorder a full and true inventory, showing all the creditors of the assignor, with certain particulars regarding their claims, and all of his estate and property. Within forty days after the date of the transfer the assignee must give a bond, to be fixed and approved by the judge of the Superior Court of the county in which the inventory is filed, and thereupon proceed to administer his trust. The assignor is not discharged from the payment of his debts except by the agreement of his creditors. Preferences made to creditors vitiates the assignment. (*See Insolvency.*)

Attachments may be issued at the time of issuing the summons, or at any time thereafter. All property not exempt from execution may be attached in an action upon a contract, express or implied, for the direct payment of money, where the contract is made or payable in this State and is not secured by any mortgage or lien upon real or personal property; or if originally secured, the security becomes valueless without any act of plaintiff. Also in an action upon a contract, express or implied, against a non-resident. The attachment is issued upon filing an undertaking, in a sum not to exceed the amount of the claim and not less than \$200, to pay all damages in case no judgment is obtained, or the issuance of the attachment was wrongful. There must be an affidavit by or on behalf of the plaintiff, showing the amount defendant indebted to plaintiff over and above all legal setoffs and counterclaims, and that the contract is one upon which attachment can issue, and that there is no security held, or if held it has become worthless without fault of the plaintiff, and that the attachment is not sought or action prosecuted to hinder, delay, or defraud any creditor of defendant. This showing must be made before an attachment can issue. The attachment may be discharged by the defendant by executing an undertaking, with sureties, to the effect that in case plaintiff recovers judgment, that the property attached will be redelivered to the sheriff, or that the plaintiff will pay the value of the property released.

Bills and Notes. *Negotiable Instruments.* A negotiable instrument is a written promise or request for the payment of a certain sum of money to order or bearer. It must be made payable in money only, and without any condition not certain of fulfillment. The person to whom it is made payable must be ascertainable at the time the instrument is made; it may give the payee an option between the payment of the sum specified and the performance of any other act, but as to the latter the instrument is not within the provisions of this title. It may be with or without date, and with or without the designation of the time or place of payment. It may contain a pledge of collateral security, with authority to dispose thereof. A negotiable instrument must not contain any other contract than as above specified.

Bills of exchange, promissory notes, bank notes, checks, bonds, and certificates of deposit are negotiable instruments.

Any date may be inserted by the maker of a negotiable instrument, whether past, present, or future; and the instrument is not

invalidated by his death or incapacity at the time of the nominal time.

Days of grace are not allowed.

Acceptances must be in writing by the drawee or by an acceptor for honor, and may be made by the acceptor writing his name across the face of the bill with or without other words.

The acceptance of a bill of exchange by a separate instrument binds the acceptor to one who, upon the faith thereof, has the bill for value or other good consideration.

The holder of a bill of exchange, if entitled to an acceptance thereof, may treat the bill as dishonored if the drawee refuses to write across its face an unqualified acceptance.

An unconditional promise in writing to accept a bill of exchange is a sufficient acceptance thereof in favor of every person who, upon the faith thereof, has taken the bill for value or other good consideration.

The protest of a notary, under his hand and official seal, is *prima facie* evidence of the facts contained therein.

A bill of exchange, if accepted with the consent of the owner by a person other than the drawee, or an acceptor for honor, becomes, in effect, the promissory note of such person, and all prior parties thereto are exonerated.

If a promissory note, payable on demand or at sight, without interest, is not duly presented for payment within six months from its date, the indorsers thereof are exonerated, unless such presentation is excused.

Bills of Lading. A carrier must subscribe and deliver to the consignor, on demand, any reasonable number of bills of lading of the same tenor. A bill of lading is an instrument in writing signed by a carrier, or his agent, describing the freight so as to identify it, stating the name of the consignor, the terms of the contract for carriage, and agreeing or directing that the freight be delivered to the order or assigns of a specified person at a specified place.

Bills of lading are negotiable, and all the title to the freight which the first holder had when he received it passes to every subsequent indorsee thereof in good faith, and for value in the ordinary course of business with a like effect and in like manner as in the case of a bill of exchange. When a bill of lading is made to "bearer," the simple transfer thereof by delivery conveys the same title as an indorsement.

A carrier is exonerated from liability by delivery of the freight in good faith to any holder of a bill of lading therefor, properly indorsed or made in favor of the bearer.

When a carrier has given a bill of lading he may require a surrender or a reasonable indemnity against claims thereon before delivering the freight.

Chattel Mortgages may be made upon locomotives, engines, and other stock of a railroad; steamboat machinery; the machinery used by machinists, foundry men, and mechanics; steam engines and boilers; mining machinery; printing presses and material; professional libraries; instruments of surveyors, physicians, or dentists; upholstery and furniture used in hotels and lodging houses; oil paintings, pictures, and works of art; all growing crops, including grapes and fruit; vessels of more than five tons burden; instruments, negatives, furniture and fixture of a photograph gallery; the machinery, casks, pipes, tubes, and utensils used in the manufacture or storage of wine, fruit-brandy, fruit-syrups, or sugar; also wines, fruit-brandy, fruit-syrup, or sugar, with the cooperage in which the same is contained; pianos and organs; iron and steel safes; neat cattle, horses, mules, swine, and sheep, and the increase thereof. The mortgage must be acknowledged or proved as in cases of real property, and must be recorded. There must be an affidavit, attached to the mortgage by all parties, that it is made in good faith and with no intention to hinder, delay, or defraud creditors. It is necessary to foreclose the mortgage, as in cases of real estate mortgages, in case of default.

Claims Against Estate of Deceased Persons. Immediately upon the appointment of an executor or administrator he must publish in some newspaper of the county—if there be one, if not then in some newspaper designated by the court—a notice to the creditors of the decedent, requiring all persons having claims against the estate to exhibit them, with the necessary vouchers, to the executor or administrator at the place of his residence or business, to be specified in the notice. Such notice must be published as often as the court shall direct, but not less than once a week for four months. The time expressed in the notice must be ten months after its first publication when the estate exceeds in value the sum of \$10,000, and four months when it does not.

All claims arising upon contracts, whether the same be due or not due or contingent, must be presented within the time specified in the notice, and any claim not so presented is barred forever, *provided* that when it is made to appear by the affidavit of the claimant, to the satisfaction of the court, that the claimant had no notice as provided, by reason of being out of the State, it may be presented at any time before a decree of distribution is entered. Every claim must be supported by affidavit, showing that the amount is justly due and that no payments have been made which are not credited, and that there are no offsets to the same, but if the claim be not due when presented, or be contingent, the particulars of such claim must be stated.

The executor or administrator may, in addition to the affidavit, require satisfactory vouchers or proofs to be produced in support of the claim.

Every claim properly presented for allowance must be indorsed by the executor or administrator, showing its allowance or rejection. If allowed it must be presented to the judge of the Superior Court for his approval, and he must indorse upon it his allowance or rejection. Every claim so allowed and approved, or a copy thereof, must, within thirty days thereafter, be filed with the court and be ranked among the acknowledged debts of the estate, to be paid in due course of administration. When, however, a claim is rejected, either by the executor or administrator or the judge, the holder must bring suit in the appropriate court thereon, within three months after the date of its rejection, if it be then due, or within two months after it becomes due, otherwise the claim is forever barred.

Judgment rendered against the decedent in his lifetime, or after his decease, on verdict prior to his decease, must be presented as in any other claim. No claim can be allowed which is barred by the statute of limitations.

Claims against the estate are paid in the following order: (1.) Funeral expenses. (2.) The expense of last sickness. (3.) Debts having preference by the laws of the United States. (4.) Judgments rendered against the decedent in his lifetime and mortgages in the order of their date. (5.) All other demands against the estate.

Collateral. (*See Pledge.*)

Conveyances. An estate in real property, other than an estate at will, or for a term not exceeding one year, can be transferred only by operation of law, or by an instrument in writing, subscribed by the party disposing of the same, or by his agent thereunto authorized by writing.

A fee simple title is presumed to be intended to pass by a grant of real property, unless it appears from the grant that a lesser estate was intended.

The proof or acknowledgment of an instrument may be made in this State within the city, county, or district for which the officer was elected or appointed, before either: (1) A judge or clerk of a court of record; or (2) a county recorder; or (3) a court commissioner; or (4) a notary public; or (5) a justice of the peace.

If taken without this State, but within the United States, and within the jurisdiction of the officer, before either: (1) A justice, judge, or clerk of any court of record of the United States; or (2) a justice, judge, or clerk of any court of record of any State; or (3) a commissioner appointed by the governor of this State for that purpose; or (4) a notary public; or (5) any other officer of the State where the acknowledgment is made, authorized by its laws to take such proof or acknowledgment.

Acknowledgments may be taken without the United States, before either: (1) A minister, commissioner, or charge d'affaires of the United States, resident and accredited in the country where the proof or acknowledgment is made; or (2) a consul, vice-consul, or consular agent of the United States, resident in the country where the proof or acknowledgment is made; or (3) a judge of a court of record of the country where the proof or acknowledgment is made; or (4) commissioners appointed for such purposes by the governor of the State, pursuant to special statutes; or (5) a notary public.

Officers taking and certifying acknowledgments or proof of instruments for record must authenticate their certificates by affixing thereto their signature, followed by the name of their office; also, their seals of office, if by the laws of the State or country where the acknowledgment or proof is taken, or by authority of which they are acting, they are required to have official seals.

If acknowledged before a justice of the peace, to be used in any other country than the one in which the justice resides, it must be accompanied by a certificate of the clerk of the county showing that at that time the justice was authorized to take the same, and that the clerk is acquainted with his handwriting, and that the signature is genuine.

An officer taking proof of the execution of any instrument must in his certificate indorsed thereon or attached thereto, set forth all the matters required by law to be done or known by him, or proved before him on the proceeding, together with the names of the witnesses examined before him, their places of residence respectively and the substance of their testimony.

Every conveyance of real property, acknowledged or proved and certified and recorded as prescribed by law, from the time it is filed with the recorder for record, is constructive notice of the contents thereof to subsequent purchasers and mortgagees. And every conveyance of real property other than a lease for a term not exceeding one year is void as against any subsequent purchaser or mortgagee of the same property, or any part thereof, in good faith and for a valuable consideration, whose conveyance is first duly recorded. And the term "conveyance" as herein used embraces every instrument in writing by which any estate or interest in real property is created, aliened, mortgaged, or incumbered, or by which the title to any real property may be affected, except wills.

Where a person purports by proper instrument to grant real property in fee simple, and subsequently acquires any title or claim of title thereto, the same passes by operation of law to the grantee or his successors, and a fee simple title is presumed to be intended to pass by a grant of real property, unless it appears from the grant that a lesser estate was intended.

Instruments entitled to be recorded must be recorded by the county recorder of the county in which the real property affected thereby is situated.

Corporations. Private corporations may be formed by the voluntary association of any five or more persons, in the manner prescribed by statute. A majority of such persons must be residents of this State. Private corporations may be formed for any purpose for which individuals may lawfully associate themselves.

Before the Secretary of State issues to any railroad, wagon-road, or telegraph corporation a certificate of the filing of articles of incorporation, there must be filed in his office an affidavit of the president, secretary, or treasurer named in the articles, that the required amount of the capital stock thereof has been actually subscribed, and 10 per cent. thereof actually paid to a treasurer for the benefit of the corporation.

Upon filing the articles of incorporation in the office of the county clerk of the county in which the principal business of the company is to be transacted, and a copy thereof, certified by the county clerk, with the Secretary of State, and the affidavit above mentioned where such affidavit is required, the Secretary of State must issue to the corporation over the great seal of the State a certificate that a copy of the articles containing the required statement of facts has been filed in his office, and thereupon the persons signing the articles, and their associates and successors, shall be a body politic and corporate by the name stated in the certificate, and for a term of fifty years, unless it is in the articles of incorporation otherwise stated, or in the code otherwise specially provided.

A copy of any articles of incorporation filed in pursuance of this chapter, and certified by the Secretary of State, must be received in all the courts, and other places as *prima facie* evidence of the facts therein stated.

Liability of Stockholders. Each stockholder of a corporation is individually and personally liable for such proportion of its debt and liabilities as the amount of stock or shares owned by him

bears to the whole of the subscribed capital stock or shares of the corporation, and for a like proportion only of each debt or claim against the corporation. Any creditor of the corporation may institute joint or several actions against any of its stockholders for the proportion of his claim, payable by each, and in such action the court must ascertain the proportion of the claim or debt for which each defendant is liable, and a several judgment must be rendered against each in conformity therewith.

If any stockholder pays his proportion of any debt due from the corporation incurred while he was such stockholder, he is relieved from any further personal liability for such debt; and if an action has been brought against him upon such debt, it shall be dismissed as to him upon his paying the costs, or such proportion thereof as may be properly chargeable against him.

The liability of each stockholder is determined by the amount of stock or shares owned by him at the time the debt or liability was incurred, and such liability is not released by any subsequent transfer of stock. The term "stockholder," as used in this section, shall apply not only to such persons as appear by the books of the corporation to be such, but also to every equitable owner of stock, although the same appears on the books in the name of another, and also to every person who has advanced the installments or purchase money of stock in the name of a minor, so long as the latter remains a minor; and also to every guardian or other trustee who voluntarily invests any trust funds in the stock.

Trust funds in the hands of a guardian or trustee shall not be liable under the provisions of this section by reason of any such investment, nor shall the person for whose benefit the investment is made be responsible in respect to the stock, until he becomes competent and able to control the same; but the responsibility of the guardian or trustee making the investment shall continue until that period.

Stock held as collateral security, or by a trustee, or in any other representative capacity, does not make the holder thereof a stockholder within the meaning of this section, except in the case above mentioned, so as to charge him with any proportion of the debts or liabilities of the corporation; but the pledgor, or person, or estate represented is to be deemed the stockholder as respects such liability. In corporations having no capital stock, each member is individually and personally liable for his proportion of its debts and liabilities, and similar actions may be brought against him, either alone or jointly with other members, to enforce such liabilities as by this section may be brought against one or more stockholders, and similar judgments may be rendered.

The liability of each stockholder of a corporation formed under the laws of any other State or Territory of the United States, or of any foreign country, and doing business within this State, shall be the same as the liability of a stockholder of a corporation created under the constitution and laws of this State.

Costs. Non-resident plaintiffs may be required to give security for costs.

In general, costs are allowed as of course to the prevailing party.

Courts, Jurisdiction, etc. Justices' courts have civil jurisdiction: 1. In actions arising on contract for the recovery of money only, if the sum claimed, exclusive of interest, does not amount to \$300, and the jurisdiction of a justice of the peace in all cases where money judgment is recoverable is limited to \$300. 2. In actions for damages for injury to the person, or for taking, detaining, or injuring personal property, or for injury to real property, where no issue is raised by the verified answer of defendant involving the title to or possession of the same, if the damages claimed do not amount to \$300 dollars. 3. In actions to recover the possession of personal property, if the value of such property does not amount to \$300. 4. In actions for a fine, penalty, or forfeiture not amounting to \$300 given by statute, or the ordinance of an incorporated city or town, where no issue is raised by the answer involving the legality of any tax, impost, assessment, toll, or municipal fine. 5. In actions upon bonds or undertakings conditioned for the payment of money, if the sum claimed does not amount to \$300, though the penalty may exceed that sum. 6. To take and enter judgment for the recovery of money on the confession of a defendant, when the amount confessed, exclusive of interest, does not amount to \$300. 7. Also concurrent jurisdiction with the Superior courts, within their respective townships.

In actions of forcible entry and detainer, where the rental value of the property entered upon or unlawfully detained does not exceed \$25 per month, and the whole amount of damages claimed does not exceed \$200.

Also in actions to enforce and foreclose liens on personal property, where neither the amount of the liens nor the value of the property amounts to \$300.

Superior Court. The jurisdiction of the Superior Court is of two kinds: 1. Original. 2. Appellate. The Superior Court has original jurisdiction in all cases in equity; in all civil actions in which the subject of litigation is not capable of pecuniary estimation; in all cases at law which involve the title or possession of real property, or the legality of any tax, etc., and in all other cases in which the demand, exclusive of interest or the value of the property in controversy, amounts to \$300; of actions of forcible entry and detainer, of proceedings in insolvency; of actions to prevent or abate a nuisance; of all matters of probate, of divorce and for annulment of marriage; and of all such special cases and proceedings as are not otherwise provided for.

They also have power to issue writs of *mandamus certiorari*, prohibition, *quo warranto*, and of *habeas corpus*, on petition by or on behalf of any person in actual custody in their respective counties.

Injunctions and writs of prohibition may be issued and served on legal holidays and non-judicial days.

Supreme Court. Has original and appellate jurisdiction. In the exercise of original jurisdiction it shall have power to issue writs of *mandamus certiorari*, prohibition, and *habeas corpus*; it shall also have power to issue all other writs necessary and proper to the complete exercise of its appellate jurisdiction.

The courts of the State are presumed to be always open for the transaction of business.

The Supreme Court holds six sessions annually. At Sacramento, in May and November; at San Francisco, in January and July; at Los Angeles, in April and October.

Days of Grace.—Days of grace are not allowed

Depositions. The deposition of a witness out of this State may be taken upon a commission issued from the court under the seal of the court, upon an order of the court, or a judge or justice thereof, on the application of either party, upon five days' previous notice to the other. If the court be a justice's court, the commission shall have attached to it a certificate under seal by the county clerk of said county to the effect that the person issuing the same was an acting justice of the peace at the date of the commission. If issued to any place within the United States, it may be directed to a person agreed upon by the parties, or if they do not agree, to any judge or justice of the peace or commissioner selected by the court, or judge, or justice issuing it. If issued to any country out of the United States, it may be directed to a minister, ambassador, consul, vice-consul, or consular agent of the United States in such country, or to any person agreed upon by the parties.

The testimony of a witness out of this State may be taken by deposition in an action, at any time after the service of the summons or the appearance of the defendant; in a special proceeding, at any time after a question of fact has arisen therein.

Depositions must be taken in the form of question and answer, and the words of the witness must be written down unless the parties agree to a different mode.

Depositions in this State. The testimony of a witness in this State may be taken by deposition in an action at any time after the service of the summons or the appearance of the defendant, and in a special proceeding after a question of fact has arisen therein, in certain enumerated cases.

Depositions for use out of the State. Any party to an action or special proceeding in a court or before a judge of a sister State, may obtain the testimony of a witness residing in this State, to be used in such action or proceeding, in the cases mentioned following:

If a commission to take such testimony has been issued from the court, or a judge thereof, before which such action or proceeding is pending, on producing the commission to a judge of the Superior Court with an affidavit satisfactory to him of the materiality of the testimony, he may issue a subpoena to the witness, requiring him to appear and testify before the commissioner named in the commission, at a specified time and place.

If a commission has not been issued and it appear to a judge of the Superior Court, or a justice of the peace, by affidavit satisfactory to him: (1.) That the testimony of the witness is material to either party. (2.) That a commission to take testimony of such witness has not been issued. (3.) That according to the law of the State where the action or special proceeding is pending, the deposition of a witness taken under such circumstances, and before such judge or justice will be received in an action or proceeding, he must issue his subpoena requiring the witness to appear and testify before him at a specified time and place.

Upon the appearance of the witness, the judge or justice must cause his testimony to be taken in writing and must certify and transmit the same to the court or judge before whom the action or proceeding is pending, in such manner as the law of that State requires.

Perpetuation of Testimony. The testimony of a witness may be taken and perpetuated in the following manner. The applicant must produce to a judge of the Superior Court a petition, verified by the oath of the applicant, stating: (1.) That the applicant expects to be a party to an action in a court of this State, and in such case the names of the persons whom he expects will be adverse parties; or (2.) That the proof of some fact is necessary to perfect the title to property in which he is interested, or to establish marriage, descent, heirship, or any other matter which may hereafter become material to establish, though no suit may at the time be anticipated, or if anticipated, he may not know the parties to such suit; and (3.) The name of the witness to be examined, his place of residence, and a general outline of the facts expected to be proved. The judge to whom such petition is presented must make an order allowing the examination, and designating the officer before whom the same must be taken, and prescribing a notice to be given, which notice, if the parties expectant are known and reside in this State, must be personally served, and if unknown, such notice must be served on the clerk of the county where the property to be affected by such evidence is situated, or the judge making the order resides, as may be directed by him, and by publication thereof in some newspaper, to be designated by the judge, for the same period required for the publication of summons. The judge must also designate in his order the clerk of the county to whom the deposition must be returned when taken.

The person appointed by the judge to take the deposition is authorized, if a resident of this State, on receiving a copy of the order of the judge, and of the notice prescribed in the last section, with proof of its personal service or publication; or if a resident without the State, on receiving the commission mentioned in the next section, with proof of like service or publication of the notice; to take the deposition of the witness named in the order of the judge, or in the commission, or if more than one witness is thus named, of such of them as appear before him, at the time designated, and the taking of the same may be continued from time to time.

The examination must be by question and answer, and if the testimony is to be taken in another State, it must be taken upon a commission to be issued by the judge allowing the examination, under the seal of the court of which he is judge, and upon interrogatories, to be settled in the same manner as in the cases of depositions taken under commission in pending actions, unless the parties expectant, if known, otherwise agree. If such parties are unknown, notice of the settlement of the interrogatories shall be published in some newspaper for such time as the judge shall designate. The deposition, when completed, must be carefully read to and subscribed by the witness, then certified by the officer or person taking the same and then shall be sealed up and delivered or transmitted to the clerk of the county designated in the order of the judge allowing the examination, who shall file the same when received. The judge allowing the examination shall file with the clerk the order for the examination, the petition on which the same was granted, with proof of service of the order and notice.

The commissioner will then attach the commission, interrogatories, cross-interrogatories, and exhibits to the depositions, inclose the same in a strong envelope, and direct same to the clerk of the

Superior Court where the cause is to be tried. He will also indorse the title of the cause across the face of the envelope. The package, thus indorsed and directed, may be sent by mail.

Descent and Distribution. Property, both real and personal, of an intestate passes to his heirs. A surviving wife succeeds to the one-half of the community property, i. e., all property acquired by husband or wife during the marriage, which does not include property acquired by either husband or wife by gift, bequest, devise or descent, which is separate property. Dower in real estate does not exist.

The separate estate is distributed as follows:

If the decedent leaves a surviving husband or wife and only one child, or the lawful issue of one child, in equal shares to the surviving husband or wife and child or issue of such child. If a surviving husband or wife and more than one child, or one child living and the lawful issue of one or more deceased children, one-third to the surviving husband or wife, and the remainder in equal shares to the children and to the lawful issue of any deceased child by right of representation. But if there be no child living, the remainder goes to all the lineal descendants, and if they are in the same degree of kindred to the decedent they share equally, otherwise by right of representation. If the decedent leaves no surviving husband or wife, the whole estate goes to the issue—the issue of children taking by right of representation.

If there is no issue the estate goes one-half to the surviving husband or wife and the other half to the father and mother in equal shares, or, if one be dead, to the survivor; if there be no father or mother, then their one-half goes in equal shares to the brothers and sisters or to their representatives. If there is no issue, or husband or wife, the estate goes to the father and mother, or the survivor, or, if both be dead, then in equal shares to the brothers and sisters, and to the children of any deceased brother or sister by right of representation.

If the decedent leave a surviving husband or wife, and neither issue, father, mother, brother, nor sister, the whole estate goes to the surviving husband or wife.

If the decedent leaves neither issue, husband, wife, father, mother, brother, nor sister, the estate must go to the next of kin in equal degree.

These are the principal provisions of the law of succession.

Tenancy by the courtesy is not known to our law. If the person dies testate, all property passes as directed by the will.

Distress for Rent is not known, but judgment for rent and damages for unlawful detainer may be had, and property not exempt from execution may be levied upon to satisfy the judgment.

Divorce. A *vinculo matrimonii* may be decreed by the Superior Court for adultery, extreme cruelty, willful desertion, willful neglect, habitual intemperance, or conviction of felony. A marriage may be annulled: 1. If the party seeking the annulment was under the age of legal consent, and the marriage was contracted without the consent of parents or guardian; 2. If the former husband or wife of either party was living and such marriage was in force; 3. If either party was of unsound mind; 4. If the consent of either party was obtained by fraud; 5. If consent was obtained by force; 6. If either party was physically incapable of entering the marriage State.

Dower. No estate is allowed the husband as tenant by courtesy upon the death of his wife, nor is any estate in dower allotted to the wife upon the death of her husband.

Estates of Deceased Persons. (See *Descent and Distribution, Claims Against Estates.*)

Evidence. Parties to all actions or proceedings may testify on their own behalf, except in cases against executors or administrators for claims of money demands against the estate which arose before the death of the party. A husband can not be examined for or against the wife without her consent. Nor the wife for or against the husband without his consent. This does not apply in actions of one against the other nor to a criminal action for a crime committed by one against the other.

Executions may issue immediately upon the entry of judgment. No right of stay exists except by order of the court in its discretion, when appeals are about to be taken, or new trial applied for.

A right of redemption exists in cases of sale of real estate upon execution, and the defendant may redeem within six months by payment of the amount of judgment and interest at 2 per cent per month. As to personal property, no right of redemption exists.

Exemptions. The following property is exempt from execution. Chairs, tables, desks, and books, to the value of \$200.

2. Necessary household, table and kitchen furniture belonging to the judgment debtor, including one sewing machine, stoves, stove-pipes and furniture, wearing apparel, beds, bedding and bedsteads, hanging pictures, oil paintings and drawings drawn or painted by any member of the family, and family portraits, and their necessary frames, provisions actually provided for individual or family use sufficient for three months, and three cows and their sucking calves, four hogs with their sucking pigs, and food for such cows and hogs for one month.

3. The farming utensils or implements of husbandry, also two oxen or two horses, or two mules, and their harness; one cart or wagon, and food for such oxen, horses, or mules for one month; also all seed, grain, or vegetables, actually provided, reserved or on hand for the purpose of planting or sowing at any time within the ensuing six months, not exceeding in value the sum of \$200, and seventy-five bee hives, and one horse and vehicle belonging to any person who is maimed or crippled, and the same is necessary in his business.

4. The tools or implements of a mechanic or artisan necessary to carry on his trade; the notarial seal, records, and office furniture of a notary public; the instruments and checks of a surgeon, physician, surveyor, or dentist, necessary to the exercise of their profession, with their professional libraries and necessary office furniture; the professional libraries of attorneys, judges, ministers of the gospel, editors, school-teachers, and music-teachers and their necessary office furniture; also the musical instruments of music-teachers actually used by them in giving instructions; and all the indexes, abstracts, books, papers, maps, and office furniture of a searcher of records necessary to be used in his profession.

5. The cabin or dwelling of a miner not exceeding in value the sum of \$500; also his sluices, pipes, hose, windlass, derrick, cars, pumps, tools, implements, and appliances necessary for carrying on any mining operations, not exceeding in value the aggregate sum of \$500; and two horses, mules, or oxen, with their harness, and food for same for one month, when necessary to be used in any whim, windlass, derrick, car, pump, or hoisting gear, and also his mining claim, actually worked by him, not exceeding in value the sum of \$1,000.

6. Two horses, two oxen, or two mules, and their harness, and one cart or wagon, one dray or truck, one coupe, one hack or carriage for one or two horses, by the use of which a cartman, truckman, huckster, peddler, hackman, teamster, or other laborer habitually earns his living, and one horse with vehicle and harness, or other equipments used by a physician, surgeon, constable, or minister of the gospel in the legitimate practice of his profession or business, with food for such oxen, horses, or mules for one month.

7. One fishing-boat and net not exceeding the total value \$500, the property of any fisherman by the lawful use of which he earns a livelihood.

8. Poultry, not exceeding in value \$25.

9. The earnings of the judgment debtor for his personal services rendered at any time within thirty days next preceding the levy of execution or attachment, where it appears by the debtor's affidavit or otherwise, that such earnings are necessary for the use of his family residing in this State, supported in whole or in part by his labor; but where debts are incurred by any such person, or his wife or family for the common necessities of life, the one-half of such earnings above mentioned are nevertheless subject to execution, garnishment, or attachment to satisfy debts so incurred.

10. The shares held by a member of a homestead association to be incorporated, not exceeding in value \$1,000, if the person holding the shares is not the owner of a homestead under the laws of this State. All the nautical instruments and wearing-apparel of any master, officer, or seaman of any steamer or other vessel.

11. All moneys, benefits, privileges, or immunities accruing or in any manner growing out of any life insurance on the life of the debtor, if the annual premiums paid do not exceed \$500.

12. All fire engines, hooks and ladders, with the carts, trucks, carriages, hose, buckets, implements, and apparatus thereunto appertaining; and all furniture and uniforms of any fire company or department organized under any law of this State.

13. All arms, uniforms, and accoutrements required by law to be kept by any person, and also one gun to be selected by the debtor.

14. All court houses, jails, and town, county, and State buildings; all public buildings, grounds, places, etc. No article, however, or species of property mentioned in this section, is exempt from execution issued upon a judgment recovered for its price or upon a judgment of foreclosure of a mortgage thereon.

False Pretenses. (See *Actions and Arrest.*)

Forms of Acknowledgment, etc. (See *Conveyances.*)

Fraud. (See *Actions, Arrest, etc.*)

Garnishment. Upon receiving information in writing from the plaintiff or his attorney that any person has in his possession, or under his control any credits or other personal property belonging to the defendant or is owing any debt to the defendant, the sheriff must serve upon such person a copy of the writ and a notice that such credits, or other property or debts, as the case may be, are attached in pursuance of such writ. All persons having any such property at the time of serving of such writ, unless it is delivered up or transferred or paid to the sheriff, shall be liable to the amount of such credits, property, or debts, until the attachment be discharged, or any judgment by him recovered be satisfied.

The garnishee may be cited to appear before the court or judge and be examined on oath respecting such property.

Holidays are every Sunday, the 1st day of January, the 22d day of February, the 30th day of May, the 4th day of July, the 9th day of September, the 1st Monday in October, the 25th day of December, every day on which an election is held throughout the State, and every day appointed by the President of the United States or by the Governor for a public fast, thanksgiving, or holiday.

If the 1st day of January, the 22d day of February, the 30th day of May, the 4th day of July, the 9th day of September, or the 25th day of December fall upon a Sunday, the Monday following is a holiday.

Homestead. The homestead consists of the dwelling house in which the claimant resides, and the land on which the same is situated.

If the claimant be married, the homestead may be selected from the community property, or the separate property of the husband, or with the consent of the wife from her separate property. When the claimant is not married, but is the head of a family the homestead may be selected from any of his or her property.

The homestead can not be selected from the separate property of the wife without her consent, shown by her making or joining in making the declaration of homestead.

The homestead is exempt from execution or forced sale, except in satisfaction of judgments obtained: 1. Before the declaration of homestead was filed for record, and which constitutes liens upon the premises. 2. On debts secured by mechanic's, contractor's, sub-contractor's, artisan's, architect's, builder's, laborer's of every class, material men's or vendor's liens upon the premises. 3. On debts secured by mortgages on the premises, executed and acknowledged by the husband and wife or by an unmarried claimant. 4. On debts secured by mortgages on the premises, executed and recorded before the declaration of homestead was filed for record.

The homestead of a married person can not be conveyed or incumbered unless the instrument by which it is conveyed or incumbered is executed and acknowledged by both husband and wife.

Homesteads may be selected and claimed: 1. If not exceeding \$5,000 in value by any head of a family; 2. If not exceeding \$1,000 in value by another person.

The phrase, "head of a family," as here used includes within its meaning: 1. The husband, where the claimant is a married person. 2. Every person who has residing on his premises with him or her and under his or her care and maintenance, either his or her minor child or minor grand-child, or the minor child of his or her deceased wife or husband; a minor brother or sister, or minor child

of a deceased brother or sister; a father, mother, grandfather, or grandmother; the father, mother, grandfather, or grandmother of a deceased husband or wife; an unmarried sister or any other of the relatives mentioned in this section who have attained the age of majority and are unable to take care of or support themselves.

Insolvent Laws. An insolvent debtor owing debts exceeding in amount the sum of \$300, may apply by petition to the Superior Court of the county in which he has resided for six months next preceding the filing of his petition, to be discharged from his debts and liabilities. In his petition he shall set forth his place of residence, his inability to pay all his debts in full, his willingness to surrender all his estate and effects for the benefit of his creditors, and his desire to obtain a discharge from his debts and liabilities, and shall annex thereto a schedule and inventory and valuation, in compliance with the provisions of this act. The filing of such petition shall be an act of insolvency, and thereupon such petitioner shall be adjudged an insolvent debtor.

An adjudication of insolvency may be made on the petition of five or more creditors, residents of this State, whose debts or demands accrued in this State, and amount in the aggregate to not less than \$500 dollars; provided, that said creditors, or either of them, or on the petition of five or more creditors of the partnership, in the manner provided.

The provisions herein apply to corporations, and in the manner provided, the like proceedings shall be had and taken, as are provided in the case of debtors. Whenever any corporation is declared insolvent all its property and assets shall be distributed to the creditors; but no discharge shall be granted to any corporation.

At any time after the expiration of three months from the adjudication of insolvency, the debtor may apply to the court for a discharge from his debts, and the court shall thereupon order notice to be given to all creditors who have proved their debts to appear on a day appointed for that purpose, and show cause why a discharge should not be granted to the debtor.

A discharge, duly granted under this act, shall, with the exceptions mentioned herein, release the debtor from all claims, debts, liabilities, demands, set forth in his schedule, or which were or might have been, proved against his estate in insolvency.

Pending proceedings by or against any person, co-partnership, or corporation, no statute of limitations of this State shall run against a claim which in its nature is provable against the estate of the debtor.

Installment Leases. A lease of personal property may be made for a stipulated rent accompanied by an agreement to make title when a given sum is paid; but great caution must be used in preparing such a lease.

Interest. Unless there is a contract fixing a different rate, interest is payable on all moneys at the rate of 7 per cent. per annum after they become due on an instrument in writing, and on moneys lent or due on any settlement of accounts from the day on which the balance is ascertained. A judgment bears 7 per cent. per annum after rendition.

Parties may agree in writing upon any rate of interest, and may agree that if the interest is not punctually paid that it shall become a part of the principal and bear the same rate.

Judgments (see *Actions*) are liens upon real estate of judgment debtors for two years, situated in the county where the judgment is entered, or in the county where a transcript of the original docket, certified by the clerk, may be filed with the recorder. A judgment is not a lien upon personal property, but such property may be seized by execution thereon. A judgment may be revived, but is barred by the statute of limitations within five years, unless revived for that time. It is revived by an action upon the judgment.

Leases of Personal Property. (See *Installment Leases.*)

Liens. (See *Mechanic's Liens, Judgments, and Executions.*)

Licenses. Commercial travelers having their places of business out of the State may be required to take out a license, but this is regulated by the different counties of the State.

Limitation of Actions. (See *Judgments.*) If real estate is held adversely for five years, such adverse possession ripens into title, except against infants and persons under disability. Actions upon judgments must be commenced within five years. Actions upon contract in writing made within the State, within four years, if made out of the State, then within two years. Book accounts or obligations, not in writing, two years. Actions against officers in official capacity to recover property wrongfully taken must be commenced within six months. The statute does not run during the time a debtor is absent from the State where the debt is contracted or payable in this State.

Limited or Special Partnerships may be formed by two or more persons for the transaction of any business, except banking or insurance. It may consist of one or more persons called general partners, and one or more called special partners. A certificate must be signed, showing nature of business, which are general and which are special partners, the amount of capital stock each has contributed. The certificate must be acknowledged, as in the case of deed; must be filed in Clerk's office, and recorded in County Recorder's office. An affidavit must be filed in same office with original certificate, stating the sum contributed. The certificate must be published in a newspaper once a week for four weeks. The general partners are liable as such. The contribution of a special partner is liable, but not otherwise unless he has willfully committed some act in violation of the provisions named, or interfered with the business of the firm, in which cases, and some others, he may be held as a general partner.

Married Women. A married woman may become a sole trader by the judgment of the Superior Court of the county in which she has resided for six months next preceding the application. The husband of the sole trader is not liable for any debts contracted by her in the course of her sole trader's business unless contracted upon his written consent. All property owned by a married woman before her marriage, and that afterward acquired by gift, bequest, devise, or descent, is her separate property. All property acquired by either husband or wife after marriage, except in the manner above specified, is community property. But whenever any property is conveyed to a married woman by an instrument in writing the presumption is that the title is thereby vested in her as her separate property. A married woman may convey without consent of her

husband, and is not liable for the debts of her husband, but is liable for her own debts contracted before or after her marriage. She may contract as a *femme sole* so as to bind her separate property. Neither husband nor wife has any interest in the property of the other. The wife may make a will of her separate property. The earnings of the wife are not liable for the debts of her husband. The separate property of the husband is not liable for the debts of the wife contracted before marriage. If the husband fail to make provision for the support of the wife, a person furnishing her with necessary articles for her support may recover the value from the husband. Married women may hold and transfer stock in corporations without the consent of the husband.

Mechanics' Liens. Mechanics, material men, artisans, architects, and laborers performing labor upon or furnishing material to be used in the construction, alteration, or repair of any building, wharf, bridge, or flume, railroad, or other structure, have a lien upon the property; also upon the land upon which the improvement or structure is constructed. The lien dates from the commencement of the improvement or labor, or the date of the commencement to furnish materials, and is good against mortgage or incumbrance subsequently attaching. Claimant must file with the recorder a claim setting forth the amount and nature of his lien; original contractors must file lien within sixty days, and any other person within thirty days, after completion of building, structure, etc.

Mortgages. (See *Chattel Mortgages*.) Any interest in real property which is capable of being transferred may be mortgaged. A mortgage can be created, renewed, or extended only by writing executed with the formalities required in the case of a grant of real property. Every transfer of an interest in real property other than in trust made only as the security for the performance of any act is to be deemed a mortgage, and the fact that the transfer was made subject to defeasance on a condition may, for the purpose of showing such transfer to be a mortgage, be proved (except as against a subsequent purchaser or encumbrancer for value and without notice) although the fact does not appear by the terms of the instrument. A mortgage is a lien upon everything that passes by a grant of the property. A mortgage does not entitle the mortgagee to the possession of the property. A mortgage does not bind the mortgagor personally to perform the act for the performance of which it is a security, unless there is an express covenant therein to that effect. The assignment of a debt secured by a mortgage carries with it the security. When a mortgage is satisfied or the mortgage indebtedness paid, the mortgagee must satisfy the mortgage of record under penalty. A mortgagee may foreclose the right of redemption of the mortgagor. A power of sale may, however, be conferred by a mortgagee or any other person, to be exercised after a breach of the obligation for which the mortgage is a security.

Partnerships (see *Limited or Special Partnerships*) may be formed for the transaction of any lawful business by two or more persons, and the partnership property, also the property of members of the firm, is liable for all debts contracted by the firm in their business.

Pledge is a deposit of personal property by way of security for the performance of any act. Delivery of the thing pledged is essential to the validity of the bailment. Where the debtor has obtained credit or an extension of time by a fraudulent misrepresentation of the value of the property pledged by or for him, the creditor may demand a further pledge to correspond with the value represented; and in default thereof may recover his debt immediately, though it be not actually due. When the performance of the act for which the pledge is given is due in whole or in part the pledgee may collect what is due to him by the sale of the property pledged. But before the property can be sold the pledgee must demand performance thereof from the debtor, if he can be found, and must give actual notice to the pledgor of the time and place at which the property pledged will be sold, at such a reasonable time before the sale as will enable the pledgor to attend, but notice of the sale may be waived by the pledgor at any time. The sale must be by public auction and must be for the highest obtainable price. After the sale the pledgee may deduct from the proceeds the amount due and the necessary expenses of sale and collection, and must pay the surplus to the pledgor. The pledgee or a pledge-holder can not purchase the property pledged except by dealing direct with the pledgor.

A pledgee can not sell any evidence of debt (collateral) pledged to him except the obligations of governments, States, or corporations; but he may collect the same when due. In all cases, instead of selling property pledged the pledgee may foreclose the right of redemption by a judicial sale under the direction of a competent court, and in that case may be authorized by the court to purchase at the sale.

Protest. (See *Bills and Notes*.)

Redemption. (See *Execution, Judgment, and Taxes*.)

Replevin. Personal property may be replevied by the owner or other person entitled to the possession thereof by bringing suit therefor and executing a bond in double the value of the property. The defendant may retain the property by giving like security.

Statute of Frauds. A will must be in writing, except a nuncupative will. (See *Wills*.) No estate in land will pass other than leases not to exceed one year, unless in writing. An agreement not to be performed within a year from making it must be in writing; also a promise to answer for the debt, default, or miscarriage of another; also agreements made in consideration of marriage other than a mutual promise to marry. An agreement for the sale of goods and chattels or things in action at a price not less than \$200, unless the buyer accept and receive part of the same or any part of the purchase money. No evidence is admissible to charge a person upon representations as to the credit of another unless the representations be in writing.

Stay of Execution. (See *Execution*.)

Supplementary Proceedings. When an execution is returned unsatisfied, the judgment creditor may obtain an order requiring the judgment debtor to appear and answer concerning his property before the judge or referee appointed by him; also, in case after the issuing of an execution, upon proof by affidavit that the judgment debtor has property which he unjustly refuses to apply toward the satisfaction of the judgment, the judge may make the order, and instead thereof, if it appear that the debtor is about to abscond, he may, by order of the judge, be arrested and required by him to give security for the judgment, or that he will attend

from time to time during the pendency of the proceedings, and that he will not in the meantime dispose of any portion of his property, and in default of security he may be committed to prison.

Taxes. All real estate may be sold for taxes, with right of redemption within one year, except city taxes governed by city charters as to time of redemption.

Testimony. (See *Evidence*.)

Trust Deeds may be used instead of mortgages, but are not often used except with some savings and loan banks or societies.

Wills. Every person over the age of eighteen years, of sound mind, may, by last will, dispose of all his estate, real and personal.

A married woman may dispose of all her separate estate by will without the consent of her husband, and may alter or revoke the will in like manner as if she were single. Her will must be executed and proved in like manner as other wills.

Every will other than a nuncupative will must be in writing, and every will other than an olographic will and a nuncupative will, must be executed and attested as follows:

1. It must be subscribed at the end thereof by the testator himself, or some person in his presence, and by his direction must subscribe his name thereto. 2. The subscription must be made in the presence of the attesting witnesses, or acknowledged by the testator to them to have been made by him or by his authority. 3. The testator must, at the time of subscribing or acknowledging the same, declare to the attesting witnesses that the instrument is his will; and, 4. There must be two attesting witnesses, each of whom must sign his name as a witness at the end of the will, at the testator's request, and in his presence.

An olographic will is one that is entirely written, dated, and signed by the hand of the testator himself. It is subject to no other form, and may be made in or out of this State, and need not be witnessed.

A witness to a will should always write his name and residence.

All devises or gifts to a subscribing witness are void unless there are two other competent subscribing witnesses.

No will made out of this State is valid as a will in this State unless executed according to the provisions of the code.

COLORADO.

BANKING LAW.

(Revised by CHARLES M. CAMPBELL, Atty. at Law, Denver.)

State Banks. The constitution says: "The General Assembly shall provide by general laws for the organization of corporations." The General Assembly has passed a law providing that any number of persons, not less than three, may associate to establish a bank of discount and deposit, the capital stock must not be less than \$30,000; fifty per cent. to be paid in before the opening of the bank, and a certificate to that effect under the oath of the president and cashier, to be filed in the office of the Secretary of State, and in the office of the Recorder of Deeds in the county where such bank is located; and no bank to continue to transact business beyond the period of one year unless the capital stock shall have been fully paid up in cash and a like certificate filed as before stated. Share-holders in banks, savings banks, trust deposit and security associations shall be held individually responsible for debts, contracts, and engagements of said association in double the amount of the par value of the stock owned by them respectively. If any banker, bank officer, or employe doing business in this State shall receive money or property after he shall have had knowledge of the insolvency of said bank, such banker or banking institution shall be deemed guilty of larceny, and, on conviction, punished by imprisonment in the penitentiary for not less than one year nor more than ten years. Evidence at the trial of the failure of any such banker or banking institution, within thirty days after the reception of the deposit or creation of such indebtedness, shall be *prima facie* evidence of knowledge on the part of the persons charged, that said bank or banking institution was insolvent at the time of the reception of such deposit or the creation of such indebtedness.

No corporation organized under the laws of this State and doing a banking business in this State shall loan its money or the money deposited with it to any individual, corporation, firm or company, directly or indirectly, or permit any individual, corporation, firm or company to become indebted to it in a sum exceeding twenty-five per cent. of its capital stock actually paid in, or permit a line of loans to any greater amount to any individual, corporation, firm or company, nor shall any such corporation loan to any officer or director of the same, or receive or hold the name of any officer or director of the same as principal or surety, or endorser upon paper for an amount greater than ninety per cent. of the capital stock of such corporation actually paid in and owned by such director or officer, unless such borrower deposit with such corporation collateral security or execute a deed of trust or mortgage upon real or personal property, which at the time is assessed or assessable for taxable purposes at a valuation ten per cent. in excess of such loan.

No president, director, manager, cashier, or other officer, agent, or employe of any bank or banking institution, organized and doing business under any law of this State, shall receive or assent to the reception of deposits, or create or assent to the creation of any indebtedness by such bank or banking institution after he shall have had knowledge of the fact that it is insolvent or in failing circumstances. Every person violating the provisions of this section shall be individually responsible for such deposits so received and such indebtedness so contracted.

Savings Banks. Savings banks shall have a capital of not less than \$25,000 which shall be paid in cash. The board of directors or trustees may invest one-half of the deposits made with them upon personal security or bonds or stock of this State or of

the United States, or in the bonds of any county, State or school district of this State, legally authorized to issue such bonds or loan the sum upon bonds secured by mortgage upon unincumbered real estate worth at least double the amount loaned.

COMMERCIAL LAW.

Acknowledgments. When executed within this State, before any Judge of any court of record, before the Clerk of any such court of record, or the Deputy of any such Clerk, such Judge, Clerk or Deputy Clerk, certifying such acknowledgment under the seal of such court; before the Clerk and Recorder of any county, or his Deputy, such Clerk or Deputy Clerk certifying the same under the seal of such county; before any Notary Public, he certifying the same under his notarial seal; or before any Justice of the Peace within his county; *provided*, that if such deed, bond or agreement be for the conveyance of lands situate beyond the county of such Justice of the Peace, there shall be affixed to his certificate of such acknowledgment a certificate of the County Clerk and Recorder of the proper county, under his hand and seal of said county, to the official capacity of such Justice of the Peace, and that the signature to such certificate of acknowledgment is the true signature of such Justice. When executed out of this State and within the United States, or any Territory thereof, before the Secretary of any such State or Territory, he certifying such acknowledgment under the seal of such State or Territory; before the Clerk of any court of record of such State or Territory or of the United States within such State or Territory, having a seal, such Clerk certifying the acknowledgment under the seal of such court; before any Notary Public of such State or Territory, he certifying the same under his notarial seal; before any Commissioner of Deeds for any such foreign State or Territory appointed under the laws of this State, he certifying such acknowledgment under his hand and official seal; before any other officer authorized by the laws of any such State or Territory to take and certify such acknowledgment; *provided*, there shall be affixed to the certificate of such officer, other than those above enumerated, a certificate by the Clerk of some court of record of the county, city or district wherein such officer resides, under the seal of such Court, that the person certifying such acknowledgment is the officer he assumes to be; that he has the authority, by the laws of such State or Territory, to take and certify such acknowledgment, and that the signature of such officer to the certificate of acknowledgment is the true signature of such officer. When executed out of the United States before any Court of Record of any foreign Republic, Kingdom, Empire, State, Principality, or Province having a seal, the acknowledgment being certified by the Judge or Justice of such Court to have been made before such Court, and such certificate to be attested by the seal of such Court, before the Mayor or other chief officer of any city or town, having a seal, such Mayor, or other chief officer, certifying such acknowledgment executed under such seal before any Consul or Consuls of the United States within such foreign country, he certifying the same under the seal of his Consulate. Deeds to State lands need not be acknowledged.

Assignments. A general assignment may be made for benefit of creditors. Deed of assignment to be recorded where assignor resides. Deed of non-resident to be recorded where principal business is carried on. Assignor to attach inventory under oath, giving name of creditors and the amount of their respective demands. Deed for benefit of all creditors, whose consent will be presumed. Assignee must file bond, inventory, and valuation in District Court of the county where deed is recorded. Notice of assignment to be published. Notice to be mailed to creditors to present claim under oath within three months. Claim filed within the first three months to have priority over those filed thereafter, unless creditor can show notice not received. When real estate is assigned, notice filed with Recorder shall be constructive notice to purchaser or incumbrancer. At expiration of three months assignee shall file with Clerk of either court, a full list of creditors, as well as statement of money received and disbursed. Exception to claim may be filed before dividend declared. No exception to claim filed. Court will order assignee from time to time to make equal dividends among creditors. Assignee always subject to order of Court, who may remove for cause, and fill vacancy. Assignee to have full power of assignor. Court may compel appearance of debtor or wife to answer under oath as to amount and situation of estate. Majority of creditors may appoint an attorney to represent estate before Court; Court may allow compensation to attorney. After assignment, if so agreed by all parties, proceedings before Court may be waived by filing agreement with Clerk. Assignee not to be discharged until final report filed; ten days' notice to be given creditors before hearing; said trust to be closed within one year from filing, unless cause shown to extend time. Property exempt from execution, shall not make deed of assignment invalid which excepts same. Unpaid wages of servants, laborers and employes, earned during six months preceding the date of assignment, not to exceed fifty dollars, and taxes assessed by laws of the State and of the United States, shall be preferred, and paid prior to dividends to creditors. Creditor may maintain an action on bond of assignee for damages sustained by reason of assignee's failure to act.

Attachments. In actions on contracts, express or implied, the plaintiff, at the time of issuing summons, or at any time afterward before judgment, may have the property of the defendant not exempt from execution attached as security for any judgment that may be rendered in such action, upon filing with the Clerk of the Court the affidavit and bond herein described, unless the defendant shall give good and sufficient security to secure the payment of such judgment. The bond must be signed by sufficient sureties to be approved by the Clerk of the Court (generally two freeholders in this State are required), and be in a sum not less than double the amount claimed by plaintiff; the condition of the bond being that the plaintiff will pay all costs that may be awarded to defendant and all damages he may sustain by reason of the attachment, if the Court shall finally decide the plaintiff was not entitled to the attachment. The affidavit shall be made by the plaintiff, his agent or attorney, or some credible person for him, and shall set forth, in addition to the fact that defendant is indebted to plaintiff in a certain sum, stated, as

near as may be, upon contract, express or implied, one of the following grounds of attachment: (1) That defendant is not a resident of this State; (2) that defendant is a foreign corporation; (3) that defendant is a corporation whose chief office or place of business is out of this State; (4) that the defendant conceals himself or stands in defiance of an officer, so that process of law can not be served upon him, or that the defendant has for more than four months been absent from the State, or that for such length of time his whereabouts have been unknown, and that the indebtedness mentioned in the affidavit has been due during all said period; (5) that the defendant is about to remove his property or effects, or a material part thereof, out of this State, with intent to defraud, or hinder or delay his creditors, or some one or more of them; (6) that the defendant has fraudulently conveyed or transferred, or assigned his property or effects, so as to hinder or delay his creditors, or some one or more of them; (7) that the defendant has fraudulently concealed or removed, or disposed of his property or effects so as to hinder or delay his creditors, or some one or more of them; (8) that the defendant is about to fraudulently convey or transfer, or assign his property or effects, so as to hinder or delay his creditors, or some one or more of them; (9) that the defendant is about to fraudulently conceal or remove, or dispose of his property or effects, so as to hinder or delay his creditors; or that such debtor has departed or is about to depart from this State, with the intention of having his effects removed from this State; (10) that the defendant has failed or refused to pay the price or value of any article or thing delivered to him, which he should have paid for upon the delivery thereof; (11) that the defendant has failed or refused to pay the price or value of any work or labor done or performed, or for any service rendered by the plaintiff, at the instance of the defendant, and which should have been paid at the completion of such work or when services were fully rendered; (12) that the defendant fraudulently contracted the debt, or fraudulently incurred the liability respecting which the suit is brought, or by false representations or false pretenses or by any fraudulent conduct, procured money or property of the plaintiff; (13) that the action is brought upon an overdue promissory note, bill of exchange and other written instrument for the direct and unconditional payment of money only and upon an overdue book account. Garnishee process will issue in aid of attachment when property of the debtor is found in the possession of third persons. Writs of attachment may issue upon debts or liabilities not yet due, if the affidavit of attachment states any of the grounds aforesaid, except the first, second and third. Where it appears necessary by affidavit filed, the writ may be executed on Sunday. The defendant may have the attached property released, by executing an undertaking to the plaintiff with at least two sureties, residents and freeholders, or householders in this State, conditioned upon the return of the property or its value on demand if the attachment be not dissolved. In all cases of attachment any person other than the defendant, claiming any of the property attached or any interest therein, may intervene without giving bail, but the property shall not thereby be released; and the Court shall, upon due notice, try the rights of such intervenors. Shares of stock of a corporation can be attached.

Corporations. Corporations organized under the laws of this State may be dissolved by a two-thirds vote of the entire stock of the corporation, before the expiration of the term fixed in the articles of incorporation, and such dissolution shall not take place until the debts owing by the corporation shall have been fully paid.

No foreign corporation doing business in this State shall be permitted to effect a reconstruction by liquidation or otherwise, nor shall such reconstruction or liquidation take effect as against any citizen of this State, unless all the rights, shares and interests of any citizen of this State shall have been, or shall be protected, and the stock interests of a citizen of this State shall have been or shall be fully recognized, and in its original condition, without diminution in number, amount, or face value.

Trust companies may be organized to act as the fiscal agent of any State, municipality, body politic, or corporation; to act as trustee under any mortgage, deed of trust or bond issued by any individual or corporation; to act under an order of appointment of any court of record as guardian, receiver or trustee of the estate of any minor; to take, accept, and execute any and all legal trusts, duties and powers in regard to the management of property, real and personal; to purchase, invest in and sell stocks, bills of exchange, notes, bonds, mortgages, and other securities; to accept the appointment of executor or trustee under a last will and testament, or administrator with or without the will annexed of the estate of any person; to act as conservator of committee of the estate of lunatics, idiots, persons of unsound mind, or habitual drunkards; to be appointed guardian of infants in all cases where an application shall be made to any court of this State, having jurisdiction for the appointment of a guardian of any infant, the amount of the income of whose estate shall exceed the sum of \$100 per annum; to have and possess the power to make insurance for the fidelity of persons holding places of responsibility and trust, and to receive upon deposit for safe keeping, money, plate, stock, bonds, and valuable property of every kind, but no company shall be incorporated for any of the purposes enumerated or possess the rights and franchises granted, unless the capital stock shall be at least \$250,000 for cities of the first-class, and \$50,000 in cities of the second-class, in cash, and shall not proceed to do business until the entire capital stock has been paid in cash.

Municipal corporations are subject to garnishment upon writ of attachment and execution in the same manner as private corporations and individuals.

Commercial Paper. The law merchant prevails generally in Colorado. All promissory notes, bonds, due bills, and other instruments in writing made by any person, whereby such person promises and agrees to pay any sum of money or article of personal property, or any sum of money on personal property, or acknowledges any sum of money or article of personal property to be due to any other person or persons, constitutes "Commercial Paper," as recognized by the General Statutes of Colorado. Such instruments of writing last mentioned, shall be taken to be due and payable to the person or persons to whom the said note, bond, bill or other instrument in writing is made; any such note, bond, bill or other instrument made payable by any person or persons, shall be assignable by endorsement thereon under the hand of such person, and of his assignee, in the same manner as bills of exchange are, so as

absolutely to transfer and vest the property thereof in each and every assignee successfully. Commercial paper need not be paid at a bank or any fixed place in the State; it is, however, customary to make payable at some bank or place of business. The banks do not pay unless personally requested so to do. Holder of Commercial Paper must exhaust remedy against maker before proceeding against endorser. In cases where any of the above-mentioned instruments of writing are for the payment or delivery of personal property other than money, and no particular place be specified in such writing for the payment or delivery thereof, it shall be lawful for the maker of any such instrument of writing to tender, or cause to be tendered, on the day mentioned in such instrument, the personal property therein mentioned, at the place where the obligee or payee of any such instrument resided at the time of the execution thereof. In case the personal property is too ponderous to be moved, or the obligee or payee have, at the time of the execution of such instrument of writing, no place of residence in the County where the maker resides, then it shall be lawful to tender such personal property at the place where the maker resided at the time of the execution thereof.

Courts. United States Circuit and District Courts, District of Colorado. Terms: At Denver, first Tuesday in May and November; at Pueblo, first Tuesday in April; at Del Norte, first Tuesday in August. Supreme Court of Colorado consists of one Chief Justice and two Associate Justices; has appellate jurisdiction only, save in a few matters, such as habeas corpus, mandamus, etc. Terms: At Denver, second Monday in September, second Monday in January, second Monday in April. Court of Appeals consists of three Judges, appellate jurisdiction only, the same as the Supreme Court. District Courts have general and original jurisdiction both in law and equity, and have appellate jurisdiction in certain cases from the County Courts and Justices of the Peace; also jurisdiction in criminal cases—in capital cases exclusive. From one to three regular terms are held in each of the several counties in each year. County Courts have exclusive probate jurisdiction and concurrent jurisdiction with the District Courts in civil cases where the debt, damages, claim or amount in controversy does not exceed two thousand dollars. They also have original jurisdiction in cases of misdemeanor and are empowered to try such cases upon information by the District Attorney. Terms: In Arapahoe and some few other counties, six terms are held yearly; in the remaining counties, four. Criminal Courts: In Pueblo and Lake counties Criminal Courts have jurisdiction concurrent with the District Courts in all criminal cases not capital. Terms: Four terms in each of said counties are held yearly. Besides the foregoing courts of record, there are Justices of the Peace in the several counties having civil jurisdiction where the amount involved does not exceed three hundred dollars, besides certain criminal jurisdiction. Courts of Record may enforce decrees in action brought for the enforcement of an express, implied or resulting trust, or the removal of cloud from title, or for the specific performance; the establishment of laws to destroy deed, conveyance or instrument in writing, or proof of any conveyance, deed or instrument in writing, not properly proved or acknowledged, or any proceeding *in rem*, or affecting only specific property. If defendant not found within the jurisdiction of the court, and constructive service alone is had, the court may appoint a trustee to act for defendant, whose acts if lawfully done under said decree shall be as effectual as if done by defendant.

Depositions. The deposition of a witness out of the State shall be taken upon commission issued by the Clerk of the Court under seal of the court where the suit is pending, on the application of either party, on five days' previous notice to the other, which notice shall be accompanied by a copy of the interrogatories to be attached to the commission. It shall be issued to a person agreed upon by the parties, or if they do not agree, to any Judge or Justice of the Peace selected by the officer granting the commission, or to a Commissioner appointed by the Governor of the State to take affidavits and depositions in other States and Territories, or to a Notary Public. The adverse party may file and have attached to the commission such cross-interrogatories as he may desire. Parties may agree by written stipulation to take the deposition orally. The commission authorizes the Commissioner to administer oaths; instructions for the taking of the deposition are printed on the back of the commission. Depositions of resident witnesses in certain cases may be taken either on written interrogations or orally.

Exemptions. Homestead consisting of house and lot or lots in any town or city, or of a farm of any number of acres, so that the value does not exceed \$2,000, when such homestead has been entered of record as such, and is occupied by a householder the head of a family. Personal property exempt includes all wearing apparel of the debtor and his family, pictures, school books and library, beds and bedding, stoves, cooking utensils, and household furniture, not exceeding \$100; provisions for six months, tools, implements, or stock in trade, up to \$200; one cow and calf, ten sheep and necessary food for six months; working animals, up to \$200; the library and implements of a professional man up to \$300. Persons not the heads of families are entitled to tools, working animals, and stock in trade, not exceeding \$300 in value. There shall be exempt from levy of attachment or garnishment, 50 per cent. of the wages or earnings of any debtor earned during the 30 days next preceding such levy under execution, attachment or garnishment of the same upon any debt incurred after the 28th day of March, 1885; provided, at least \$30 be exempt in all cases. Also, the earnings of any debtor, or the wife who is the head of a family, dependent in whole or in part upon such earnings, not exceeding \$100, earned during the thirty days next preceding the issuing of any writ of execution, attachment or garnishment. Also all moneys received as a pension, whether said pensioner shall be the head of a family or not. When the debtor dies or absconds and leaves his family the money exempted, the same shall be exempt to his wife and children, or either of them.

Fraudulent Conveyances. Any person or persons who shall be a party to any fraudulent conveyance or sale of any lands, tenements or hereditaments, goods or chattels or any right or interest issuing out of the same, or who shall conceal, secrete, remove or dispose of any goods or chattels, or shall be a party to any bond, suit, judgment or execution contract or conveyance had, made or contrived with intent on the part of said parties, in either case, to

deceive and defraud or defeat, hinder or delay the creditor or creditors, of such person or persons aforesaid in the collection of their just debts, damages or demand, such person or persons shall, on conviction of either or all of said offenses, be punished by confining in the penitentiary for a term not exceeding three years.

Husband and Wife retain their separate property, real and personal, owned at marriage, or acquired thereafter by gift, and the rents, issues, profits, and proceeds thereof, and any real, personal or mixed property which shall come to them by descent, devise or bequest or the gift of any person except the husband, including presents from the husband—for their own separate use, and not liable for their husbands' debts. They may carry on trade or business, sue and be sued, contract debts, and execute promissory notes, bonds, bills of exchange and other instruments precisely as if sole, and may convey real estate without the husband joining in the deed. A married woman may make a will, but can not bequeath more than half her property away from her husband without his consent in writing. Dower is abolished, and the estate of an intestate descends to the surviving wife or husband where there are no children, or descendants of children; in other cases survivor takes one-half subject to payment of debts. The husband can not by will deprive his wife of over one-half of his property. A married woman can sue and be sued the same as if she were sole. In all marriages hereafter contracted, the husband shall be liable for the debts and the liabilities of the wife contracted before marriage, to the extent of the real and personal property he may receive with or through her, or derive from the sale or rent of her lands, and no further. The expenses of the family and the education of the children are chargeable from the property of both husband and wife, or either of them, and in relation thereto they may be sued jointly or severally.

Interest. The legal rate where no agreement is made, is eight per cent. and the same is allowed on bonds, bills, promissory notes, judgments, county, town, and city warrants and other like evidences or certificates of municipal indebtedness; said warrants draw eight per cent. Parties may stipulate for a higher rate. There are no usury laws.

Judgments and Executions may be issued from all courts immediately on entering judgment, and become a lien at once on all personal property of defendant within the county. When issued from a court of record, are returnable in ninety days; from a Justice's Court, thirty days; and land on which defendant resides must be taken last. Defendant or legal representative has six months in which to redeem lands sold under execution; judgment creditors may redeem after six and within nine months. Where execution is returned unsatisfied, judgment debtor may be required to answer under oath touching his property, and if it appears by affidavit that there is danger of his absconding, he may be arrested and held to bail. There is no stay of execution except by appeal. Where an award has been made and filed by the successful party, with the Clerk of the District Court, as a basis of a judgment, an execution may be issued for its collection. All and singular the goods, chattels, lands, tenements and real estate of every person against whom any judgment shall be obtained in any court of record, for any debt, damages or costs, shall be liable to be sold on execution. A transcript of the docket entry of any judgment certified by the Clerk of the Court, may be filed with the Recorder of any county, and from the time of filing, shall constitute a lien upon all the real property of such judgment debtor, not exempt from execution in such county, for the period of six years. Execution may issue upon any judgment at any time within twenty years from the entry thereof, but not afterwards, unless revived as provided by law.

Judgments are liens upon real estate within the county as soon as abstracts thereof are filed of record in the office of the County Recorder and not before, and may be extended to other counties by filing transcript. Lien continues six years from entry of judgment, provided execution be issued on the judgment within one year. Judgments are liens upon personal property during the lifetime of the execution from the date when the execution was placed in the hands of the officer on all property within the county where such officer is acting. Judgments may be revived.

Limitations to Suits. Actions of debt founded upon contract express or implied; upon judgments of courts not courts of record; for arrears of rent; of assumpsit on a case founded on any contract; for waste and trespass on land and for replevin, must be begun within six years after the cause of action accrues. Actions against Sheriffs and Coroners, for liability incurred by them in their official capacity, shall be brought within one year after the cause of action accrues. Bills of relief on the ground of fraud must be filed within three years after the discovery of the fraud by the aggrieved party; in case of a trust not cognizable by the Courts of common law within five years. In actions accruing out of the State upon contract express or implied or upon any sealed instrument in writing, or judgment or decree of any Court, more than six years before the commencement of the action, the statute of limitations may be pleaded in bar of recovery. Persons under the age of 21 years, married women, persons insane, imprisoned or absent from the United States, may bring any of the foregoing actions within the time in this chapter respectively limited after the disability shall be removed. If any person entitled to bring any of the foregoing actions shall die before the expiration of the time limited therefor, and if the cause of action does by law survive, the action may be commenced by the executor or administrator of the deceased person at any time within one year after the grant of letters testamentary or of administration, and not afterwards, if barred by the provisions of this chapter. Payment by one co-obligator will not take the case out of the statute as to the others.

Mortgages. There are no statutory provisions except as to foreclosure and redemption from sale, the same time being allowed for redemption as in sales under execution. Trust deeds are common, and lands or real estate sold by the trustee under the deed or trust are not redeemable. Chattel mortgages, to be valid as to third parties, must be acknowledged before some officer authorized to take the acknowledgment of deeds to real estate, and recorded in the Recorder's office, unless possession of the chattels actually passes; thereupon shall be good from time recorded until maturity of the last installment of the mortgage indebtedness, and may be given not exceeding two years if principal does not exceed \$2,500, and not exceeding five years if the principal is

more than \$2,500, and not more than \$20,000, and not more than ten years if indebtedness exceeds \$20,000, notwithstanding property mortgaged or conveyed by deed of trust remains in the possession of mortgagors. If mortgage given to secure greater sum than \$2,500, these shall be recorded in the county where mortgage is recorded and sworn statement showing (1) mortgage given in good faith to secure payment of sum mentioned therein, (2) how much has been paid or remains unpaid. Mortgages on live stock to cover increase thereafter born. Where chattel mortgage does not exceed \$300, payable in one installment, due not more than eighteen months after, may be extended not exceeding six months beyond maturity, by mortgagee or assignee filing with the County Clerk of the county where mortgage is recorded a sworn statement showing (1) amount which remains unpaid, (2) that it is still due; that mortgagee or assignee consents to extend mortgage not to exceed six months. Thereupon lien extended for period named. If the mortgage indebtedness does not exceed \$300, and the time for the maturity of the mortgage indebtedness does not exceed six months, not required to be recorded, but may be filed with County Clerk and Recorder, and when satisfied same shall be made to appear released on the margin of the instrument.

Notes and Bills of Exchange. Promissory notes, due bills, bonds, and other instruments in writing, are negotiable by indorsement, and if made payable to a person or bearer, do not pass by delivery only, but must be assigned by indorsement, so as absolutely to vest the property in each assignee successively. Assignee must use due diligence against the maker before he can hold the assignor liable. All days of grace abolished. Paper maturing on Sunday, Fourth of July, Christmas, or any day set apart by the President of the United States, or the Governor, as a day of fasting or thanksgiving, is deemed to fall due the previous day, and may be presented and protested accordingly. Protest is necessary upon foreign bills of exchange, and bills drawn upon any person or body politic or corporate out of the State and within the United States and her territories for non-acceptance or non-payment; and the drawee or endorser thereof, due notice being given of such non-acceptance or non-payment, must pay said bill, with legal interest thereon from the time such bill ought to have been paid, and ten per cent. damages in addition, together with the costs and charges of protest. A person upon being convicted of fraudulently giving a check or draft on a bank organized under the State laws or laws of the United States in which he has not sufficient funds, shall be guilty of a misdemeanor, punishable by fine or imprisonment.

Partnership. Surviving partner shall make an inventory and a complete list of all the liabilities of deceased partner, and have the estate appraised in like manner as the individual property of a deceased person. Inventory under oath to be returned to the County Court, granting administration, within sixty days after death of co-partner. Persons neglecting or refusing to make return, shall, after citation, be liable to attachment. Surviving partner shall have a right to continue in possession of the effects of the partnership, and pay its debts out of the same. Court may prevent waste by surviving partner to give security for the faithful settlement of the affairs of the co-partnership. Limited partnership may be formed and provided by statute.

Suits. There is but one form of civil action, commenced in courts of record by the filing of a complaint with the Clerk of the court in which the action is brought; or by service of summons. Complaint must be filed within ten days after summons issued or the action may be dismissed without notice. Any time within one month after filing the complaint, plaintiff may have summons issued. Defendant is required to plead, demur or answer the complaint or stand default within twenty days after service of summons, if served in the county, or if served out of such county or by publication, within thirty days. If copy of complaint not served, or if the service be by publication, ten days additional to the time above mentioned shall be allowed for appearance and answer. If defendant is served by publication, service shall be deemed complete after expiration of ten days from date of last publication, said publication having been made at least once a week for four successive weeks. If affidavit stating defendant resides out of the State and gives defendant's post-office address, clerk shall mail defendant copy of summons forthwith. Actions are commenced in Justice's Courts by summons stating amount of demand.

Taxes are a perpetual lien on real estate until paid. Taxes may now be paid in two semi-annual installments; the first half on or before the last day of January, and the residue on or before the last day of July of the year following the one in which they are assessed. Real estate sold for taxes may be redeemed any time within three years by payment of amount for which it was sold, with interest, and the penalty as prescribed by law. All mines and mining property of the class heretofore exempted by the Constitution of the State, shall be assessed and taxed, and the taxes levied and enforced by sale of the property taxed in default of payment, as is provided by law in the case of other classes of taxable real properties.

Warehouses. Warehouses, granaries and elevators, maintained for the general use of the public for storage purposes, shall be deemed public warehouses. Warehouse receipts for property stored in any public warehouse, shall be transferable with the endorsement of the party to whose order such receipt may be issued, and such endorsement shall be deemed a valid transfer of the property represented by such receipt, and may be made either in blank or to the order of another, and the delivery of the receipt, so endorsed, shall be a valid delivery of the property mentioned therein; provided, however, that all warehouse receipts which shall have the words "not negotiable" plainly written, printed or stamped on the face thereof, shall not be negotiable.

CONNECTICUT.

BANKING LAW.

(Revised by LIVINGSTON W. CLEVELAND, Attorney at Law, New Haven.)

Every bank and trust company is required to keep in its banking office gold and silver coin, bullion, bonds, legal tender notes of the United States or National bank currency to an amount not less

than one-tenth of all its liabilities, except its capital stock; but the bonds of the United States so included in said reserve fund shall never exceed one-twentieth of said liabilities. No trust company or banking corporation shall declare any dividend except from its net earnings, after deducting all losses, over-drafts and obligations suspended or over-due, or make any loan or discount on a pledge of its own stock, or establish any branch office or agency thereof, or employ any agent or person to make loans or discount at any other place than its banking house. No bank or trust company shall give credit to any party who shall thereby become liable to it for more than 15 per cent. of its capital stock actually paid in, together with the surplus, or discount any paper made, accepted or indorsed by its cashier or any of its clerks, or by any partnership of which either is a member. No director in any bank shall be obligated to such bank to an amount exceeding 5 per cent. of the capital actually paid in and surplus combined, and no bank shall permit the directors to become obligated to it to an amount at any one time exceeding in the whole the sum of 20 per cent. on its capital stock actually paid in and surplus combined. Cashiers of banks and treasurers of trust companies are required to give not less than \$10,000 bonds. There are two Bank Commissioners appointed by the Governor of the State, with the advice and consent of the Senate, who examine every bank and trust company semi-annually or oftener, with power to examine witnesses under oath, and who report annually to the legislature the condition of all such institutions examined by them. The cashiers of all banks and treasurers of all trust companies are required to sign and deliver to the Bank Commissioners quarterly a particular statement of the condition of their respective institutions, exhibiting their resources and liabilities and the daily average of specie and of specie funds during the three months last preceding, which statement shall be verified by oath, and published in a newspaper in the county where such bank or trust company is located; and are also required on or before the 1st day of April in each year, and oftener if required by the Bank Commissioners, to transmit to them a sworn statement of the condition of their respective institutions, making a balance sheet showing, among other things, the amount invested in real estate, the locality thereof, and its cash value, the amount invested in stocks or bonds, with the number of shares of said stock and the par value thereof, the actual cost to the institution, the actual market value at the time of said return, the number and amount of such bonds and their description, and all other investments in personal property, specifying the value thereof and the original cost, also the amount of money held in trust and on deposit on the day of the return, the average amount of loans for the year, and the actual amount of loans on the day of the return, and the security held therefor. The treasurer of each savings bank shall file with the Bank Commissioners a similar annual statement on or before the first day of October in each year.

Savings banks may invest, not exceeding 20 per centum of their deposits and surplus, in notes secured by pledge of dividend-paying stocks or interest-bearing bonds as collateral security; not exceeding twenty-five per centum thereof, in notes secured by indorsement, guaranty, or joint and several obligation of two or more parties, residents of this State; and may invest also in the purchase of the authorized bonds of the United States; in the authorized bonds or interest-bearing obligations of any of the New England States, or of the States of New York, New Jersey, Pennsylvania, Ohio, Kentucky, Michigan, Indiana, Illinois, Wisconsin, Iowa, Minnesota, Missouri, Kansas, Nebraska, Colorado, Delaware, Maryland, Washington, California, Oregon, or the District of Columbia; in the authorized bonds of any incorporated city in the New England States, or of the cities of New York, Brooklyn, Albany, Syracuse, Utica, Troy, Rochester, and Buffalo, in the State of New York; Philadelphia, in the State of Pennsylvania; Detroit, in the State of Michigan; Cleveland, Columbus, Dayton, Cincinnati, and Toledo, in the State of Ohio; Chicago, in the State of Illinois; Milwaukee, in the State of Wisconsin; St. Louis, in the State of Missouri; Louisville, in the State of Kentucky; Omaha, in the State of Nebraska; Newark, in the State of New Jersey; or in the purchase of the legally authorized obligations of counties, cities, towns, boroughs, and school districts in this State; or in the stock of any bank or trust company in this State, or the stock of any bank in New York City, or Boston, Mass.; or the authorized bonds of any other incorporated city of not less than 20,000 inhabitants, located in any of the aforesaid States, as ascertained by the United States or State census made next preceding such investment, whose indebtedness upon its stocks and bonds, including the issue in which such investment is made, and its proportion of town and county debts, after deducting the amount of cash and negotiable securities in the sinking fund available for the payment of such indebtedness, does not exceed 8 per centum of the valuation of property made for the assessment of taxes next preceding such investment; provided, said city has not defaulted payment of any of its debts within fifteen years next preceding the purchase of such investment; or in the first mortgage bonds of any railroad company whose road is located wholly or in part in any of the States hereinbefore mentioned, which has paid dividends of not less than 4 per centum per annum regularly on its entire capital stock for a period of not less than five years next previous to the purchase of the bonds; provided, said capital stock equals or exceeds in amount one-third of the entire authorized issue of said bonds; or in the consolidated bonds of any railroad company incorporated by this State and authorized to issue such bonds to retire the entire debt of said company; provided, said company has paid dividends as aforesaid; but this act shall not be held to authorize the purchase of bonds of any horse, electric, cable, or elevated railroad. All other investments shall be in loans secured by mortgage of unincumbered real estate in this State, worth double the amount of the loan secured thereon; provided, that the Stafford Savings Bank of the town of Stafford may loan on land located in the county of Hampden, in the State of Massachusetts, the Stonington Savings Bank of the town of Stonington may loan on land located in the county of Washington, in the State of Rhode Island, the Ridgefield Savings Bank of the town of Ridgefield may loan on land located in the county of Westchester, in the State of New York, and the Thompson Savings Bank of the town of Putnam may loan on land located in the county of Providence, in the State of Rhode Island.

Investments in United States bonds, in bonds of this State, in the obligations of any of the towns, cities, boroughs, school districts and counties in this State, or in the bonds of any of the States

or cities whose bonds savings banks are now allowed by law to purchase, may be classed with loans upon real estate, for the purpose of determining the proportion of loans required upon such estate.

COMMERCIAL LAW.

Acknowledgments. Deeds of land must be in writing, subscribed and sealed by the grantor, attested by two witnesses, and acknowledged by the grantor to be his free act and deed, if in this State, before a Judge of a court of record of this State or of the United States, Justice of the Peace, Commissioner of the School Fund, Commissioner of the Superior Court, Clerk of the Superior Court or Court of Common Pleas or District Court, Notary Public, Town Clerk or Assistant Town Clerk; if in any other State or Territory of the United States, before a Commissioner appointed by the Governor of this State and residing therein, or any officer authorized to take the acknowledgment of deeds in such State or Territory; and if in a foreign country, before any Consul of the United States or Notary Public or Justice of the Peace in such foreign country.

Assignments and Insolvency. Voluntary assignments in insolvency can be made by any debtor to a trustee of his own selection, subject to the substitution of another by the Probate Court, if deemed proper. Assigning debtor must lodge with Court of Probate, within five days after assignment, a list verified under oath of his creditors, with their residences and the amounts severally due them, and a schedule of his property. A creditor for over \$100, having brought suit and finding no property to attach, may apply to the Probate Court for the appointment of a trustee in insolvency of the debtor's estate. A hearing is had, and, if the petition is granted, trustee takes all debtor's estate not exempt; and all incomplete levies or attachments on mesne process commenced within sixty days previous, are dissolved. Three to six months are allowed to prove claims, which are passed upon by Commissioners appointed for that purpose. The debtor receives an allowance for his support and that of his family, and if the estate pays seventy per cent. of all claims proved, he obtains a full discharge. Debtors may be arrested in actions for fraud or torts, and can give bail to the officer making the arrest, for their appearance before the court to which the writ for arrest is returnable. A debtor committed to jail on civil process can be released on taking an oath that he has not any estate in possession, reversion or remainder, of the value of \$17 in the whole, or sufficient to pay the demand for which he is imprisoned, except what is by law exempt from execution; and that he has not, directly or indirectly, disposed of, all or any part of his estate, thereby to secure the same, or to receive or expect any advantage therefrom, or to defraud his creditors. The debtor will not be released if his oath is overcome by rebutting evidence. All debts due any laborer or mechanic for personal wages for labor performed within three months next preceding the assignment are to be paid in full to the amount of \$100, before the general liabilities of the debtor are paid.

Attachment is served by attaching goods or lands of defendant, or, if none be found, by attaching the person when liable. Non-resident plaintiff must furnish bond for costs. Goods concealed in hands of agents, or debts due to the defendant, are reached by foreign attachment, which takes the place of garnishment. No assignment of future earnings will prevent their attachment when earned unless made to secure a *bona fide* debt, due at the date of such assignment, the amount of which shall be stated therein as nearly as possible, nor unless the term for which they are assigned shall be definitely limited in the assignment, nor unless recorded, before such attachment in the Town Clerk's office in the town where the assignor resides, or if he reside without the State in the town where the employer resides and a copy left with the employer.

Conditional Sales. All contracts for the sale of personal property, conditioned that the title thereto shall remain in the vendor after delivery, shall be in writing, describing the property and all the conditions of such sale acknowledged before some competent authority, and recorded in the town clerk's office in the town where the vendee resides. All conditional sales of personal property which shall not be thus executed and recorded shall be held to be absolute sales, except against the vendor and his heirs, and all such property shall be liable to be taken by attachment and execution for the debt of the vendee, in the same manner as any other property not exempted by law.

Contracts. No civil action shall be obtained upon any agreement whereby to charge any executor or administrator, upon a special promise to answer damages out of his own estate, or against any person upon any special promise, to answer for the debt, default, or miscarriage, of another; or upon any agreement made upon consideration of marriage; or upon any agreement for the sale of real estate, or any interest in or concerning it, or upon any agreement that is not to be performed within one year from the making thereof, unless such agreement, or some memorandum thereof, be made in writing, and signed by the party to be charged therewith, or his agent; but this shall not apply to parol agreements for hiring or leasing real estate, or any interest therein, for one year or less, in pursuance of which the leased premises have been, or shall be, actually occupied by the lessee or any person claiming under him, during any part of such term. No agreement for the sale of any personal property for fifty dollars or upwards shall be good, unless the buyer shall accept and actually receive part of the property sold, or give something to bind the bargain, or in part payment, or unless some memorandum in writing of such agreement shall be signed by the parties to be charged therewith, or their agents. Probate Courts may, concurrently with courts of equity, authorize the executor or administrator to convey the title of the deceased in any real estate to any person entitled to it, by virtue of any contract of such deceased person. Wagering contracts are void. Money lost in gaming may be recovered in a civil action, if suit be brought by the party losing within three months. Failure to do so within three months enables any other person to sue for and recover treble damages, half for his own use and half for the county. All fraudulent conveyances, suits, judgments, executions, or contracts, made or contrived with intent to avoid any debt or

duty belonging to others, shall, notwithstanding any pretended consideration therefor, be void as against those persons only, their heirs, executors, administrators, or assigns, to whom such debt or duty belongs.

Corporations. Joint stock corporations may be formed by any three or more persons, who shall associate by written articles which shall express their agreement to constitute a corporation, the name by which it shall be known, the purpose for which it is constituted, the town in this State in which it is to be located, the amount of its capital stock, and the number of shares each person is to take, which shares shall each be of the par value of \$100, \$50, or \$25, as may be prescribed. The name of such a corporation must commence with "The" and end with "Company" or "Corporation," which name is not then in use by any existing corporation in this State. The business must not be either trust, insurance, buying and selling real estate, banking, or trading in bonds, notes, or other evidence of indebtedness, or trafficking in letters patent or patent rights. Notice of the first meeting may be waived by all the subscribers to the capital stock. At least five days' notice must be given of all subsequent meetings. Three or more directors must be elected at the first meeting (including adjournment thereof, who shall elect the officers. The directors shall cause the articles of association to be published in a newspaper, and a certificate setting forth a true copy of the articles of association and stating that such publication has been made and giving the names and residences of the subscribers, the amount of capital stock taken by each, the amount actually paid for in cash and the amount paid for in property must be deposited with the Secretary of State, and a duplicate thereof in the office of the town clerk of the town where said corporation is located. All the capital stock must be subscribed for by *bona fide* subscribers and at least twenty per cent. paid for in cash. Such joint stock corporations may hold any property necessary for their purposes, including real estate and patent rights. All officers of such a corporation, who shall intentionally fail to perform any of the duties by law required of them, shall be jointly and severally liable for all its debts contracted during the period of such failure. If the directors declare or pay a dividend, knowing that such corporation is insolvent, or that such payment will make it so, they become jointly and severally liable for its debts at the time of such declaration or payment. The stock of every corporation is transferable only on its books in accordance with its by-laws, and the corporation, has a lien on all the stock of any of its stockholders for debts due the corporation and may enforce such lien by sale at public auction. Provision is made for winding up the affairs of the corporation and for its dissolution by the Superior Court. Three or more persons may associate for any lawful purpose, where no capital stock is created, and when so associated and its articles of association duly attested have been lodged with the Secretary of State, and the town clerk, such association shall be a body politic and corporate, and may hold property, the annual income of which shall not exceed \$5,000. The name of every private corporation must indicate that it is a corporation.

Courts. Terms and Jurisdiction. Superior Court holds one term per year in each county for the trial of civil causes, and has jurisdiction in all law and equity cases exceeding \$500. Court of Common Pleas in Hartford, Fairfield, New London and New Haven counties, has exclusive law and equity jurisdiction above \$100 and below \$500, and concurrent jurisdiction with the Superior Court above \$500 and up to \$1,000, and in Litchfield County has exclusive jurisdiction up to \$1,000. Not less than four terms each year are held in each of the counties named, and there are City Courts in many of the cities, and a District Court at Waterbury, with limited civil jurisdiction. Probate Courts deal with the settlement of estates and insolvency proceedings, and Justices of the Peace have civil jurisdiction up to \$100.

Depositions may be taken in a civil action by a Judge or Clerk of any Court, Justice of the Peace, Notary Public, or Commissioner of the Superior Court, when witness lives out of the State, or more than twenty miles from place of trial, is over sixty years of age and unable to attend the trial, is going to sea, or out of the State, or by age and infirmity is unable to travel to court, or is confined in jail. Reasonable notice must be given to adverse party. Deponents must be cautioned to speak the whole truth, and carefully examined. They must subscribe their depositions, and make oath before the authority taking the same. Depositions may be taken in any other State or country by a Notary Public, Commissioner appointed by the Governor of this State, or by any Magistrate having power to administer oaths, and they may also be taken before a Foreign Minister, Secretary of Legation, Consul, or Vice-Consul appointed by the United States, if taken out of the United States. A Judge of the Superior, Common Pleas, or District Court can issue a "commission" to take the deposition of a person residing out of this State, to be used in a cause pending before such Court. The Superior Court, upon petition, may allow depositions to be taken to perpetuate testimony concerning that which may thereafter be the subject of a suit. The person taking depositions may compel attendance of witnesses by subpoena and capias.

Executions issue on final judgment, and are returnable within sixty days. No execution issued in an action founded on contract merely can be levied on the body of the debtor except for breach of promise of marriage, misconduct or neglect in office or professional employment, or breach of trust. Real estate levied on must be appraised by three indifferent persons. Stay of execution only on appeal, or in special causes at discretion of court. Any judgment debtor, an execution against whom shall have been returned unsatisfied in whole or in part, may be examined on oath touching his property and means of paying such judgment, and may be committed for contempt in case of neglect or refusal to attend, or to be sworn or to answer any question put to him during the examination.

Exemptions. Homestead, to the value of \$1,000, if declaration to hold it as such is recorded. Of the property of any one person, his necessary apparel and bedding and household furniture necessary for supporting life; arms, military equipments, uniforms or musical instruments owned by any member of the militia for military purposes; any pension moneys received from the United States while in the hands of the pensioner; implements of the debtor's trade, his library not exceeding \$500 in value; one cow not exceeding \$150 in value; any number of sheep not exceed-

Original from

ing ten nor exceeding in all \$150 in value; two swine and the pork produced from two swine, or two swine and two hundred pounds of pork; poultry not exceeding \$25 in value; certain specified family stores; the horse of any practicing physician or surgeon of a value not exceeding \$200, and his saddle, bridle, harness and buggy; one boat used in the business of planting or taking oysters or clams, or shad, with the sails, tackle, rigging and implements used in said business not exceeding in value \$200; one sewing machine in use; one pew in church in use, and lots in burying ground, appropriated by its owner for the burial place of any person or family; so much of any debt which has accrued by reason of the personal services of the debtor as shall not exceed \$50, including wages due for the personal services of any minor child, and all benefits allowed by any association of persons in this State toward the support of its members, incapacitated by sickness or infirmity, shall be exempted from foreign attachment or execution.

Interest. Legal rate, in absence of express agreement, six per cent.; no more than six per cent. can be recovered in either case after debt becomes payable; no usury laws.

Judgments carry six per cent. interest, but are not liens, and execution may be had at any time during the life of both parties. Judgment by default may be obtained within the first three days of term to which suit is brought, unless debtor makes reasonable defense. Certificate of judgment may be recorded by judgment creditor or his assignee in Town Clerk's office, and such judgment from the time of filing such certificate shall constitute a lien upon the real estate described in such certificate, and if such lien be placed upon real estate attached in the suit upon which such judgment was predicated and within four months after such judgment was rendered, it shall hold from the date of such attachment. Such lien may be foreclosed or redeemed in the same manner as mortgages upon the same estate, and may also be foreclosed by decree of sale.

Limitations to Suits. Open accounts and contracts not under seal, six years; contracts under seal and promissory notes not negotiable, seventeen years; executory contracts, not in writing, to recover unliquidated damages, three years. Usual exceptions in favor of married women, minors, lunatics, and those imprisoned. The time during which the party against whom there may be such cause of action shall be without the State, shall be excluded from the computation. Title to real estate by adverse possession may be gained in fifteen years.

Married Women. By a law passed in 1877, neither husband nor wife shall acquire any interest in the estate of the other by force of a marriage contracted subsequent to April 20, 1877, except as to the share of the survivor in the property of the other; and in such a marriage, the separate earnings of the wife shall be her sole property, and the wife shall have power to make contracts with third persons, and to convey to them her real or personal estate in the same manner as if she were unmarried. All her property shall be liable to be taken for her debts in the same manner and to the same extent as if she was unmarried—except that the property of the husband, when found, shall be first applied to satisfy liabilities incurred for the support of the family. On the death of the husband or wife, the survivor (except where by a written contract made before marriage, or after, either party has received from the other what was intended as a provision in lieu of the statutory share) shall be entitled to the use for life of one-third in value of all the property, real or personal, owned by the other at the time of his or her decease, after the payment of all debts and charges allowed against the estate. The right to such third can not be defeated by will. Where there is no will the survivor shall take such third absolutely, and if there are no children, shall take one-half absolutely. In cases of marriages contracted prior to April 20, 1877, the husband and wife may enter into a written contract for the mutual abandonment of all rights of either in the property of the other under previous statutes, or at common law, and for the acceptance instead thereof of the rights given by act of 1877, and when such contract is recorded in the Probate Court of the district and the Town Clerk's office in the town where they reside, the provisions of act of 1877 shall apply to such marriages. In marriages contracted prior to April 20, 1877, the wife remains under the same disabilities as before the law of 1877 was passed (unless written contract is made and recorded as above mentioned), that is, her husband must join her in all conveyances of her estate, and an action can be sustained against her only upon any causes of action which accrued before her marriage, for torts committed by her and upon contracts made by her, upon her personal credit, and for the benefit of herself, her family or her joint or separate estate. Contracts which by express agreement charge estate held to her sole and separate use may be enforced against such estate. Her property is not liable for her husband's debts, nor can his interest in her estate be taken for his debts during the life of the wife or of any child that is the issue of their marriage, except for debts contracted by him for the support of his wife and such issue after his acquiring such interest. Any married woman may make a will subject to the marital rights of her husband. Dower exists only in real estate of which the husband was seized at his death. The husband acquires a right to the use of all the land of his wife during her life, and if he has a child by her, and survives her, then during his own life as tenant by courtesy. Personal property of any woman married since June 22, 1849, and before April 20, 1877, vests in her husband as trustee, to use the income during his life, subject to the duty of expending what may be necessary of such income for the support of his wife during her life, and of their children during their minority, and of expending any part of the principal that may be necessary for the support of the wife, or otherwise with her written assent. Upon the death of the husband the remainder to be transferred to the wife if living, otherwise as the wife may by will have directed, or in default of such will, to those entitled by law to succeed to her intestate estate. Married woman may be executrix, trustee or guardian without consent of her husband, and the husband is not liable for her acts and defaults unless such acts are by his express direction. Any married woman over the person and estate of whose husband a conservator has been appointed, while such appointment is unrevoked, may lease, sell, convey and have and exercise all rights in and concerning her estate in the same manner as if she were unmarried.

Mortgages of real estate are executed, acknowledged and recorded in the same manner as deeds, and are foreclosed by strict foreclosure or by a decree of sale. The equity of redemption exists for a limited time fixed by the court (usually from two to six months). Chattel mortgages to be good against third parties, where the mortgagor retains possession, must be executed, acknowledged and recorded as mortgages of land, and can only be made of the following described personal property—with or without the real estate in which the same is situated or used—namely: machinery, engines or implements situated and used in any manufacturing or mechanical establishment; machinery, engines, implements, cases, types, cuts or plates situated and used in any printing, publishing or engraving establishment; household furniture in a dwelling house used by the owner therein in housekeeping; hay and tobacco in the leaf in any building. Piano, organ, melodeon, and any musical instrument used by an orchestra or band. Brick, burned or unburned, in any kiln or brick yard. Hotel keepers may mortgage the furniture, fixtures and other personal chattels contained and used in the hotels occupied by them or employed in connection therewith. Chattel mortgages are foreclosed by sale under order of court.

Notes and Bills of Exchange. Promissory notes made payable to order or bearer for the payment of money only, are negotiable. The laws of this State make no distinction between commercial and negotiable paper, and do not require that negotiable notes be made payable at a bank or any fixed place in the State, unless so stipulated in the note. No days of grace, unless specified, are allowed on non-negotiable notes, or on paper payable at sight or on demand. A negotiable promissory note payable on demand is regarded as dishonored if unpaid four months after date. Demand and reasonable notice are necessary to bind indorsers. Notes or bills falling due upon any holiday, to wit, 1st of January, 22d of February, 30th of May, 4th of July, December 25th, 1st Monday of September, known as labor day, Thanksgiving, or Fast Days, or on the Monday next following such day when such day occurs on Sunday, are presentable for payment or acceptance on the secular day next preceding such holiday. Damages for protested bills, foreign, are from two to eight per cent., according to location of State where protested. Protests of inland bills of exchange and promissory notes, protested without this State, shall be *prima facie* evidence of the facts therein stated.

Suits. Process in civil actions is by writ of summons or attachment. All processes before the Superior Court, District Court, or Court of Common Pleas, must be served at least twelve days before the session of the court; in Court of Common Pleas for New Haven county, where defendants reside in town of New Haven, service made six days inclusive before the session of the court is sufficient; before a Justice, six days. Where there is process of garnishment, garnishee must be served with copy of writ twelve days before session of the court, whether Justice or other court.

Taxes. Land may be sold for delinquent taxes after due advertising, only so much being sold as is necessary to pay taxes and costs. Owner has one year in which to redeem, by paying the purchase money, with twelve per cent. interest. Any mortgagee or creditor of the owner may redeem within the year, and may hold the estate as security for the purchase money and interest as aforesaid. Taxes shall not be held to constitute a lien upon lands for a greater sum than the taxes assessed upon such lands, so far as mortgagees are concerned, whose title existed prior to the laying of said taxes.

Taxes are a lien upon real estate from first day of October of year previous to that in which they become due, until one year after they become due. The lien may be continued for five years by recording, within first year after it becomes due, a certificate of lien.

Bonds, notes, or other choses in action, except bonds and notes secured by mortgage on real estate situated in this State, may be exempted from all local taxation by paying to the State a tax of 1 per cent on the face amount thereof for five years, or at the option of the holder thereof for a greater or less number of years at a proportionate rate. The State Treasurer indorses the term of such exemption upon such bond, note, or other chose in action, or gives to the person paying such State tax a receipt therefor describing such bond, note, or other chose in action, and certifying that such State tax has been paid for one or more years, as the case may be.

All property within the jurisdiction of this State, whether belonging to inhabitants of this State or not, which shall pass by will or by the intestate laws of this State, or by deed, grant, sale, or gift made or intended to take effect in possession or enjoyment after the death of the grantor, to any person in trust or otherwise, other than to or for the use of the father, mother, brother, sister, husband, wife, lineal descendant, adopted child, the lineal descendant of any adopted child, the wife or widow of a son, the husband of the daughter of a descendant, or some charitable purpose, or purpose strictly public within this State, shall be liable to a tax of 5 per cent of its value above the sum of \$1,000, for the use of the State. This tax is known as the "Collateral Inheritance Tax," and is payable to the Treasurer of the State by the executor, administrator, or trustee one year from the death of the testator or intestate, or the qualification of the trustee.

Wills. All persons of the age of eighteen years, and of sound mind, may dispose of their estate (real or personal) by will. No devise, except for public and charitable uses, or for the care of cemeteries or graves, shall be made to any persons but such as are at the time of the death of the testator in being, or to their immediate issue or descendants. Wills must be in writing, subscribed by the testator, and attested by three witnesses, each of them subscribing in his presence, but they will be effectual here if executed according to the laws of the State or country where executed. If, after the making of a will, the testator shall marry, or if children are born to the testator, and no provision is made in the will for such contingency, such marriage or birth shall operate as a revocation of such will. A will or codicil is otherwise revoked by burning, canceling, tearing, or obliterating it by the testator, or some person in his presence by his direction, or by a later will or codicil. A devise or bequest to a subscribing witness, or to the husband or wife of a subscribing witness, is void, unless the will is otherwise legally attested, or unless the devisee or legatee be an heir to the testator. Wills are proved and estates settled in the Probate Court in the district where the deceased resided.

Original from

DELAWARE.

(Revised by WM. F. SMALLEY, Attorney at Law, Wilmington.)

BANKING LAW.

There is no general banking act and but one State Bank, which was chartered by the Legislature in 1807. There are no official examinations and the bank is merely required to make a yearly report of its condition to the Governor of the State. Banking companies can only be formed by special act of the Legislature, and the holders of stock therein are taxed at the rate of one-fourth of one per centum on the cash value of each share of capital stock.

COMMERCIAL LAW.

Acknowledgment. (See *Conveyances*.)

Actions. Suit may be commenced by *capias*, summons, and (where defendant is non-resident) by attachment of property. Summons in Justice's Court may be issued returnable in fifteen days from date of issue, or may be made returnable forthwith, in the discretion of the Justice. In Superior Court the summons must be served personally on debtor before court sits, or by leaving a copy of the summons at his usual place of abode, in presence of some white adult person, six days before Court sits. Service by publication allowed in the Court of Chancery only.

Affidavits may be administered in the State by the chancellor, any judge, justice of the peace, or notary public; and out of the State by any official duly authorized to take acknowledgments of deeds, etc.

Corporations. For religious, charitable, literary, and manufacturing purposes and for the preservation of animal and vegetable food, building and loan associations, and for draining low lands, are provided for by general incorporation act. All others must be created by Act of Legislature. Each stock-holder is individually liable for the amount of capital stock not paid in in proportion to the amount subscribed by him. Corporations of other States may be sued in this State, and the property of the same found here may be seized by attachment.

Assignments and Insolvency. There is a domestic insolvent law, providing for a full surrender and equal distribution of all property, but it is very seldom used, and there is no provision in the Act for the discharge of the debtor upon his making an assignment. The assignee must file a schedule of property assigned within thirty days, and two appraisers are then appointed by the Chancellor. Assignments must be for the benefit of all creditors alike.

Attachments. Domestic attachment may be issued against an inhabitant of this State, after a return to a summons or *capias* issued ten days before the return thereof, of *non est inventus*, and proof of cause of action; or upon the filing of an affidavit "that the defendant is justly indebted to the plaintiff in a sum exceeding \$50, and has absconded from the place of his usual abode, or gone out of the State with intent to defraud his creditors, or to elude process, as is believed." The writ directs the attachment of property and summons of garnishees. Attachment may be dissolved on entering security to satisfy any judgment to the extent of the property attached that may be recovered against the defendant. On return of attachment the court appoints three persons as auditors of the claims of creditors; the creditor attaching is allowed a double share for his diligence. Any creditor not duly presenting his claim receives no share in the distribution. Plaintiff is not required to give security. Wages are exempt from attachment in New Castle County except for board or lodging.

Foreign attachment may be issued against any person not an inhabitant of the State after a return of *non est* as in domestic attachment, or upon affidavit being made "that the defendant resides out of the State, and is justly indebted to the plaintiff in a sum exceeding \$50." Foreign attachment may also issue against a foreign corporation, but in this case the amount of the real debt must be particularly specified in the affidavit. Unlike domestic attachments the plaintiff has the benefit of his own discovery and does not share with other creditors. It is similar to domestic attachment in all respects except as to appointment of auditors and distribution among creditors. The court or any judge upon petition may investigate any allegation in affidavit, except as to the amount of the debt, and dissolve the attachment if sufficient ground be not shown. Foreign attachment is otherwise dissolved by entering special bail.

Bills and Notes. Acceptance should be in writing on the bill. All checks, notes, drafts, or bills, foreign or inland, payable without time or at sight, are due on presentment without grace. Days of grace are allowed on drafts or bills payable at a different time from that at which they are dated, but not on checks.

Chattel Mortgages must be accompanied with an affidavit that the mortgage is made for the *bona fide* purpose of securing a debt, and not to defraud creditors, and if recorded within ten days from the acknowledgment thereof, is a valid lien for three years on personal property, the possession of which may remain in the mortgagor.

Claims Against Estates of Deceased Persons are paid in the following order: 1. Funeral expenses. 2. Bills for medicine, medical attendance, nursing, and necessaries for last sickness of the deceased. 3. Not more than one year's wages of servants in house and labors on a farm. 4. Rent for not more than one year, either growing due or in arrears. 5. Judgments and decrees in equity against deceased. 6. Recognizances, mortgages, and other obligations of record. 7. Obligations and contracts under seal. 8. Contracts under hand for the payment of money, delivery of goods, wares, or merchandise. 9. Other demands.

Administration is granted: 1. To the person entitled to the residue. 2. To one or more of the creditors. 3. To any suitable person, resident or non-resident. Bond must be given for an amount double the value of the estate. Notice must be given of claims against the deceased within six months from granting of letters (except claims of record), or executor or administrator is protected in paying debts of a lower grade. One year is allowed for settling the estate, and until the expiration of that time, he need not make distribution, nor is he chargeable with interest on the assets in hand. He may be removed upon sufficient cause. Letters granted in other States and produced under the seal of the officer or court granting the same, is competent authority for him to act in this State.

Contracts are joint and several, unless otherwise expressed.

Conveyances of Real Estate must be under seal (a scroll is sufficient) and should be executed before one witness at least. Deed may be acknowledged out of the State before any consul-general, consul, or commercial agent of the United States, duly appointed in any foreign country at the places of their respective official residence; before the judge of any district or circuit court of the United States, or the chancellor or any judge of a court of record of any State, Territory, or country, or the mayor or chief officer of any city or borough, and certified under the hand of such chancellor, judge, mayor, or officer, and the seal of his office, court, city, or borough, by certificate endorsed upon or annexed to the deed; or such acknowledgment or proof may be taken in any such court and certified under the hand of the clerk or other officer of said court, and the seal of said court in like manner. In case of such certificate by a judge, the seal of his court may be affixed to his certificate, or to a certificate of attestation of the clerk or keeper of the seal. Such acknowledgment may also be taken by any commissioner of deeds for this State, or by a notary public of any State or Territory. Wife must join in deed to bar dower, and husband to bar courtesy.

A deed by a corporation may be executed and acknowledged by the president or other presiding officer duly authorized by resolution of the directors, trustees, or other managers, or by the legally constituted attorney of such corporation.

Deeds must be recorded within three months after sealing and delivery, to avail against creditors, mortgagee, or *bona fide* purchasers, without notice.

Costs. Non-resident plaintiffs may be required to give security for costs.

Courts. Terms and Jurisdiction. The different courts of the State are as follows: Court of Error and Appeals; regular term at Dover, third Tuesday in June and January. Court of Chancery; regular terms, New Castle County, at Wilmington, on the fourth Monday in March and second Monday in September; Kent County, at Dover, third Monday in March and third Monday in September; Sussex County, at Georgetown, second Monday in March and first Monday in September. Orphans' Court, terms are identical with those of the Court of Chancery. Superior Court, Oyer and Terminer, and Court of General Sessions of the Peace and Jail Delivery. Two additional terms of the Superior Court, and also of the Court of General Sessions of the Peace and Jail Delivery are held, commencing on the third Monday in September and the first Monday in February, respectively, of each and every year. Jurisdiction—The Superior Court has jurisdiction in all civil cases. Regular Terms—Kent, third Monday in April and October; Sussex, first Monday in April and October; New Castle, fourth Monday after commencement of April term in Kent, and fourth Monday in November, and additional terms in February and September, as above. Justice's jurisdiction, \$200.

Depositions. In any suit pending, the prothonotary, on application, enters a rule commission on the part of the applicant to any Commissioner of the State or other person. The commission issues on ten days' notice of interrogatories filed. Exceptions to interrogatories must be filed before the commission issues, and are heard before a judge at chambers. Exceptions to the execution must be filed within two days after publication.

NOTE. If the Commissioner employ a clerk, add "The clerk by me employed in taking, writing, transcribing, and engrossing the said depositions, having first duly taken the oath assigned to the said commission according to the tenor thereof."

Executions are a lien upon personalty from the time the sheriff received the writ, if actual levy be made within sixty days thereafter. Lien remains in force three years. Execution shall be issued within five years after date of judgment. Goods and chattels of a tenant are liable to one year's rent in preference to the execution. There is no redemption on property sold under execution or mortgage. In New Castle County wages for a month not exceeding \$50 of employes are preferred to the execution. Stay of six months is granted in Courts of Record upon judgments recorded for want of affidavit of defense, provided security be given within twenty days after judgment. In Justice's Courts defendant may have six months' stay, upon pleading his freehold; nine months' stay upon giving security.

Exemptions. No homestead law. Family pictures, Bible, and library; lot in burial-ground and pew in church; all wearing apparel, sewing machines in private families, and tools not to exceed \$75. In addition, debtor, where head of a family, may claim \$200 of personal property. The provisions of the exemption law extend and apply to a person dying and leaving a widow, giving and securing to such widow the same benefit of exemption that her husband would have had if living. The widow of one dying insolvent is entitled to have laid off to her goods not exceeding in value \$200, to be selected by her. Wages are exempt from execution attachment in New Castle County.

Garnishment. All persons except public officers, attorneys, etc., are subject to summons as garnishees. Wages are not subject to garnishment in New Castle County.

Homestead. There is no homestead law in Delaware.

Interest. Legal rate is 6 per cent. Any person who takes more for the use or the loan of money shall forfeit and pay to any one suing for the same a sum equal to the money loaned, one-half for the use of the State, and the other for the party suing.

Judgments of courts of record are liens upon all real estate of the debtor in the county where judgment is entered from their date, but the lien may be extended into either or both the other

Original from

UNIVERSITY OF WASHINGTON

counties. Judgments can only be obtained in this State upon judgments in other States by suit, upon a certified copy of the record of said judgment authenticated under the Act of Congress passed May 26, 1790.

Transcripts of judgments reversed before justices of the peace may be entered in the Superior Court and thus be made liens on real estate. Satisfaction must be entered within sixty days after payment.

Limitations. Judgments and specialties are merely presumed to have been paid after the lapse of twenty years. No action of trespass, replevin, detinue, debt not founded upon a record or specialty, assumpsit, or action upon the case shall be brought after three years from the accruing of the cause of action. Actions on promissory notes, bills of exchange, or acknowledgments under hand must be brought within six years. On recognizances of sheriff, administrators' or executors' bonds, within six years from date. Bond of guardian within three years from the determination of guardianship.

Acknowledgments to remove the bar of the statute must be of a "subsisting demand or indebtedness."

Married Women retain their real and personal property owned at marriage (where married since April 9, 1873), or received from any person other than the husband. May receive wages for their personal labor, and prosecute and defend suits for preservation and protection of their own property, as if unmarried, and the rents, issues, and profits of their separate estate are not controllable by the husband. *Dower.* The widow is entitled to one-third part of all the lands and tenements whereof her husband was seized at any time during her marriage, unless she shall have relinquished such right for and during the term of her natural life. If her husband die without issue or the children of issue, she takes a moiety instead of a third part of the real estate. A married woman of the age of twenty-one years and upwards may dispose of her property, both real and personal, by will, without the written consent of her husband, but not by deed. Two or more witnesses are necessary for a will. Husband and wife may testify in all actions in which either or both are or may be parties to the suit. Her husband is not liable on any contract for the payment of money unless he be a party thereto.

Mortgages of Real Property are executed and acknowledged like other deeds. Upon foreclosure of same there is no redemption of property. A purchase money mortgage should be recorded within thirty days to avail against a subsequent innocent holder.

Protest. (See Bills and Notes.)

Replevin. The writ issues out of the Superior Court to obtain possession of goods unlawfully taken or unlawfully detained. No affidavit is required, but before the officer to whom it is directed can execute it, the plaintiff or some substantial person for him must enter into bond to such officer to a penalty of double the value of the goods to be replevined, conditioned to prosecute the suit with effect, etc. Defendant may give counter bond and retain the goods.

Summons may be served on the defendant by stating the substance of it to him personally at any time before the return of the writ, or by leaving a copy of it at his usual place of abode, in the presence of some adult person six days before the return thereof. Against a corporation may be served on the president or head officer, if residing in the State, and if not, on any officer, director, or manager of the corporation.

In chancery service may be had by publication under order of the chancellor.

Taxes laid and imposed by the levy court of a county or by the State for its own purposes, are a lien upon all the real estate of the taxable upon whom they are imposed, for two years, and such lien has preference to all other liens against him.

General assessments are made every four years.

Wills. Any person of the age of twenty-one years or upwards, of sound mind, may make a will as well of real as personal estate.

Every will must be in writing and signed by the testator, or by some person subscribing the testator's name in his presence and by his express direction, and attested and subscribed in his presence by two or more credible witnesses, or it shall be void.

A will shall be proved before the register of the county in which the testator resided at the time of his death.

A nuncupative will of personal estate not amounting to over \$200 and pronounced by the testator in his last illness in the presence of two or more witnesses is valid if reduced to writing and attested by said witnesses within three days after. Children born after the date of the will of the parent are entitled to the same share of the parent's estate as if such parent had died intestate.

DISTRICT OF COLUMBIA.

BANKING LAW.

(Revised by J. J. DARLINGTON, Attorney at Law, Washington.)

All banks organized in the District of Columbia, except purely private banks, are subject to, and governed by, the acts of Congress applicable to National Bank associations. See act of Congress approved June 30, 1876.

COMMERCIAL LAW.

Acknowledgment of deeds may be made before any judge of a court of record, chancellor, justice of the peace, or notary public. The certificate of the Clerk of Court as to official character of the justice of the peace or notary should be annexed. Deeds made in any foreign country may be executed and acknowledged before any judge, chancellor, notary public, or any Secretary of Legation, or consular officer of the United States.

Assignments and Insolvency must be accompanied by inventory under oath, of all assignor's property, a list of creditors, with their residences and amount of their claims. Assignee must be resident of the District. Preferences prohibited. No insolvency law in the District of Columbia.

Attachments may issue at institution of suit or subsequently, upon affidavit of plaintiff or his agent, supported by that of one or more witnesses, showing right to recover, and that defendant is a non-resident, or evades service of process, or has removed, assigned, disposed of, or secreted property with intent to hinder, delay, and defraud creditors, or is about to do so. Creditor must give bond, with approved surety or sureties, for costs and damages if attachment wrongfully sued out.

Corporations for manufacturing, agricultural, mining, mechanical, insurance, mercantile, transportation, market and savings-bank purposes, may be formed by any three or more persons by executing and recording certificate stating corporate name and object, term of existence (not exceeding twenty years, except where object is life insurance), the amount of capital stock, the number of shares, the number and names of trustees or managers for the first year, and the name of the place in the District in which the operations of the company are to be carried on. Nothing but money can be considered as payment of any part of the capital stock, and each shareholder is individually liable to creditors to an amount equal to the stock held by him. One-half of the capital stock must be paid within one year, and the other half within two years, from incorporation. Foreign corporations doing business in the District are subject to service of process on their agents, or persons conducting such business, or by leaving copy at principal place of business therein.

Courts in session continuously throughout the year, except August. Suits on contracts, accompanied by sufficient affidavit of right to recover, result in judgment in three weeks, without trial, if filed twenty days before first Tuesday of any month except August, unless defendant files sufficient affidavit of defense. Justices of the Peace have exclusive jurisdiction up to \$50, and concurrent jurisdiction with upper court between \$50 and \$100.

Days of Grace allowed on all commercial paper except checks and sight drafts.

Executions may issue immediately upon rendition of judgment, but liable to be superseded by appeal, accompanied by approved bond for payment, filed within twenty days after judgment, exclusive of Sundays.

Exemptions. In addition to wearing apparel, etc., household furniture to the value of \$300, implements of debtor's trade or business to the value of \$200, stock for carrying on business to amount of \$200, one horse, harness and cart, wagon or dray, and earnings of married men or heads of families, not to exceed \$100 per month.

Interest 6 per cent, except that, by contract in writing, parties may stipulate for interest not to exceed 10 per centum. Oral contract for more than 6 or written contract for more than 10 per cent forfeits all interest, and entitles the debtor to sue for all interest paid under such contract, if suit brought within one year from time of payment.

Judgments lien on unincumbered real estate from rendition, and on personalty from delivery of execution to Marshal. Incumbered real estate not affected by judgment until creditor's bill filed. Judgments valid for twelve years, and may be continued in force indefinitely by *sci. fa.* Real estate unaffected by judgments of Justice of the Peace, unless filed in Supreme Court.

Limitations. Three years on simple contract debts, and twelve years on specialties, with usual exceptions in favor of persons under disability, other than non-residents.

Married Women have separate estate in all property owned at time of marriage, or acquired during marriage otherwise than by gift or conveyance from husband. May contract, sue and be sued in all matters having relation to such sole and separate estate; but the contract must be *in a matter having relation* to such estate. Incompetent to carry on a mercantile business, nor liable for debts contracted in attempting to do so. Earnings during coverture are property of the husband and liable for his debts.

Mortgages. Entirely supplanted by deeds of trust, requiring no court proceedings to foreclose. Joinder of wife necessary to bar dower where property is subject to no prior incumbrance. Chattel trusts void unless recorded in twenty days after execution, and invalid as to property exempt from execution, *ut supra*, unless signed by wife.

Notes and Bills governed by the law, merchant unaffected by any local legislation or peculiarities. Legal holidays are New Year's Day, February 22d, May 30th or May 31st if 30th falls on Sunday, July 4th, December 25th, Inauguration Day, and such days as the President may appoint or recommend as days of public fasting or thanksgiving. All notes, drafts, checks, or other commercial or negotiable paper falling due on holidays are treated as maturing on the day previous.

Protest. Inland bills of exchange and promissory notes, as well as foreign bills of exchange, may be protested by notaries public, whose original protest, stating presentment, non-acceptance, or non-payment, and service of notice on any of the parties, specifying the mode of giving such notice, the reputed place of residence of the party notified, and the post office nearest thereto, is prima facie evidence of the facts contained therein.

Suits. Court costs are \$10, and \$1 additional for each defendant sued. For additional particulars see Courts, *supra*.

Taxes. One and one-half per centum upon assessed value of property, real and personal. Penalty of 2 per cent per month for default in payment.

Wills. To pass real estate, three witnesses required; valid as to personalty without witnesses. Wills pass only real estate owned by testator at time of execution, unless contrary intent expressly declared in instrument. Administrators appointed and duly qualified in any of the States may administer upon assets in the District without ancillary administration therein.

Original from

FLORIDA.

BANKING LAW.

(Revised by WILLIAM A. BLOUNT, Attorney at Law, Pensacola.)

There may be established, by five (5) or more persons, in any incorporated town or city having 3,000 or more inhabitants, a banking association or institution, with corporate powers or privileges, with a capital of not less than \$50,000. In towns of not less than 3,000 inhabitants the capital may, with the Comptroller's approval, be not less than \$15,000. Savings banks may have not less than \$20,000 capital. Banks are formed as other corporations are, and can not begin business until authorized by the Comptroller. The Comptroller of the State may inspect and supervise the business of the bank, and inspect and examine its books, papers, documents, minutes, and everything pertaining to the acts of the bank. Banks are required to make a semi-annual return to the State Comptroller of resources and liabilities, and advertise in January of each year amount of stock, property, and contractual indebtedness. Before organization fifty (50) per cent. of the capital stock must be paid in cash; ten (10) per cent. each month thereafter. Stockholders are individually liable to the extent of their stock at the par value thereof, in addition to the amount invested in said shares. Directors must be citizens of the United States, and own ten (10) shares of stock of \$100 per share.

The Comptroller, with the aid of the Courts, winds up the affairs of insolvent banks.

COMMERCIAL LAW.

Acknowledgments. Deeds to freehold, or interest therein for a term of over two years, must be in writing, sealed (or scrawled) and delivered in the presence of two witnesses. Transfers and releases subject to same rules. In case a deed, mortgage or other instrument shall be executed in another State, Territory or District of the United States, the acknowledgment may be made before any Judge or Clerk of a court of record, Notary Public, or Justice of the Peace having a seal, or before a Commissioner of Deeds for Florida. The seal of the officer taking the acknowledgment must be affixed. In order to convey dower all deeds of conveyance, mortgage or transfer of interest in real estate should be signed by husband and wife, and the wife's acknowledgment be separately taken. The wife's separate real estate can be conveyed only by the joint deed of herself and husband and confirmed by her separate acknowledgment. The signatures of parties to the instrument must be witnessed by two persons, who will sign as witnesses.

Assignments and Insolvency. Assignments by insolvents are provided for by law. Preferences are not allowed. All property, except that which is exempt, must be surrendered to the assignee. Assignee gives bond and winds up estate. The assignment does not release debtor from debts.

Attachment process may issue upon affidavit made, setting forth that amount is actually due; that plaintiff has reason to believe defendant will fraudulently part with his property before judgment can be recovered, or is actually removing his property, or is about to remove it out of the State, or reside beyond the limits thereof, or is actually removing out of the State, or absconds or conceals himself, or is secreting property or fraudulently disposing of same, or actually removing, or is about to remove, beyond the Judicial Circuit in which he, she or they reside. Plaintiff must give bond, with two securities, in at least double the debt or sum demanded. No arrest allowed in civil actions. Garnishee process issues on judgment rendered. Writs of garnishment may also be issued at commencement of suit or at any time afterward, provided the plaintiff, his agent or attorney, will make affidavit that he does not believe the defendant will have in his possession, within the State and county, visible property on which a levy could be made, sufficient to satisfy such execution as he believes he shall be able to obtain.

Corporations may be organized for any lawful business under a general law. Stockholder liable only for amount unpaid upon subscription. Charter fee of two per cent. on capital stock, payable to the State, but no fee is less than \$5 and none over \$250.

Courts. Circuit Courts hold two terms a year in each county, and have original jurisdiction in all equity cases, also in all cases at law not cognizable by inferior courts. County Courts have jurisdiction of amounts not exceeding \$500. County Judges, at all times open for probate business, have full probate powers, have also civil jurisdiction to extent of \$100. Justice's jurisdiction, \$100.

Days of Grace. Three days are allowed. None on sight drafts.

Executions are returnable when satisfied, Sheriff reporting progress at each term. Sale day first Monday in each month. No stay law. No redemption of property sold under execution.

Exemptions to every head of a family residing in the State Homestead of 160 acres of land, and improvements, if in the country; one-half acre of ground, if in an incorporated city or town, together with \$1,000 worth of personal property. The exemptions in a city or town shall not extend to more improvements or buildings than the residence and business house of the owner. No property is exempt from sale for taxes or assessments, or for obligations contracted for its purchase, or the erection or repair of improvements thereon, or for house, field or other labor performed thereon. The wages of every laborer who is the head of a family residing in the State, are exempt from attachment.

Interest. Eight per cent. is allowed on judgments and contracts where interest is payable but no rate is specified. Contract for more than ten (10) per cent. is usurious, and all interest forfeited.

Judgments of a court of record are a lien upon real estate of debtor within the county where rendered, and may be extended to other counties by recording certified transcript of judgment in any county where a lien is sought.

Limitation of Actions. Civil actions can only be commenced within the following periods after the cause of action shall have accrued: Within seven years, actions for the recovery of real property; within seven years, actions on judgments of Courts of the United States, or of any State or Territory other than Florida itself; on Florida judgments, twenty (20) years. Contracts or obligations in writing, under seal, twenty years; Contract in writing not under seal, five years; or action for any article charged in a store account, and all actions not herein specifically mentioned, four years; trespass to realty, taking, detaining or injury to chattels, for relief on ground of fraud, upon contract not founded upon instrument of writing, except open account for goods, wares and merchandise, three years; action for libel, slander, assault, battery, false imprisonment, an open account for goods, wares and merchandise, two years. Actions against railroad companies for killing cattle, and on action by the State for a statutory penalty or forfeiture, one year.

Married Women retain their property, real or personal, owned at marriage or acquired thereafter by gift, devise, descent, or purchase, and it is not liable for his debts except by her written consent executed according to law regulating conveyances of married women. Husband must join in all sales, transfers and conveyances of the wife's property, except when he has been adjudged insane for more than a year. Widow takes as dower a life estate in one-third part of the real estate of which her husband was seized and possessed at any time during her coverture, and an absolute one-third of all personalty; or may at her option take as an heir equally with the children of the husband, and if there are no children she will inherit all the property, real and personal.

Mortgages of real estate must be executed and proved or acknowledged in the same manner as deeds, and, to be effectual against creditors or *bona fide* purchasers, must be recorded. Are foreclosed by bill in equity in the Circuit Court. Chattel mortgages must be recorded, unless property is delivered to mortgagee, and remains in his possession.

Notes and Bills of Exchange. There is no definition by statute or decision of commercial paper, and no requirement that it shall be made payable at a bank or any fixed place. Five per cent. damages are allowed on foreign commercial paper protested in this State. Bills of exchange, bank checks and promissory notes which are presentable for payment or acceptance on Sunday, New Year's Day, Christmas Day, 3d of June, 4th of July, 22d of February, and general election day, or any day appointed by the President of the United States or by the Governor of the State as a day of thanksgiving or fasting or prayer or other religious observance, shall be deemed presentable for payment or acceptance on the secular or business day next preceding such holiday. If New Year's Day, Christmas Day, 4th of July, or the 22d of February shall fall on Sunday, the Monday following shall be a holiday, and paper presentable on that day shall be presented on the Saturday preceding. The first Monday in September is Labor day and a legal holiday.

Suits. Actions at law are commenced by filing a precipe with the Clerk. Personal service is required except in suits by attachment. Writs are returnable on the next rule day, provided ten days intervene; if not, then on the rule day in the next succeeding month. If no appearance of defendant, default is entered forthwith. Default may be entered for want of plea or other pleading on rule day, next after appearance day.

Taxes. Lands are sold for taxes and may be redeemed within two years, by payment of all delinquent taxes, with interest at the rate of twenty-five per cent. per annum, and fifty cents redemption fees. Taxes are payable November 1, but not collectible by compulsory process until April 1, following.

Wills of real estate must be attested by two witnesses. Wills of personalty require no witnesses.

GEORGIA.

BANKING LAW.

(Revised by ELLIS & GRAY, Attorneys at Law, Atlanta.)

Banks, by a provision of the Constitution, and the Statute, are chartered only by the Legislature.

The State Treasurer is also Bank Examiner. He is required to visit each bank chartered by this State at least once each year; he shall examine and make report to the Governor of the result of his examinations. His report shall embrace the names of the President and Directors, and a list of the Stockholders on the day of the regular meeting of the President and Directors, next preceding the date of his report; the amount of stock owned by each individual or company, and the amount of money actually paid in on each share; the amount of bills of other banks of the State, of gold, silver and bullion in their vaults; the amount of debts due them within and without the State, so designating them, which may be denominated specie funds; the active or running paper; the amounts in suits, under protest and not in suit, clearly stating what amount of such debts is good, what doubtful, what bad, and what lost; the amount of bills in circulation, the amount on deposit, and the highest amount due and owing by each. By act of 1891 it is provided that Banks shall make quarterly reports to Examiner; they shall not reduce cash in hand below 25 per cent. of demand deposits. If capital stock is impaired by losses, such shrinkage shall be charged to profit and loss. No bank shall loan to any one person an amount more than ten per cent. of the capital stock unless secured by good collateral; nor shall any officer of the bank receive a loan to any amount without putting up ample security.

The penalty for failure to make reports, as required of Banks, is a forfeiture to the State of two per cent. per month on the capital stock for each month each default shall continue. Making a false affidavit to a return or report is perjury. Bank Examiner may demand a special report at any time.

By Act of 1887 it is made a misdemeanor for any officer or agent of a bank to borrow any money from the bank except by permission of a majority of the Directors or a committee of such Directors.

COMMERCIAL LAW.

Acknowledgments may be taken within the State by a Judge or Clerk of a court of record, Commissioner of Deeds, Justice of the Peace, or Notary Public. In other States or Territories, by a Commissioner of Deeds for Georgia, or Judge of court of record; in the State where executed, with a certificate of the Clerk, under the seal of such Court, that the court is a court of record, and of the genuineness of the signature of such Judge; and in foreign countries by a Consul or Vice-Consul of the United States. Deeds to realty should be attested by two witnesses, one of whom shall be an official authorized to take acknowledgments. Deeds must be filed for record at once, in order to affect third parties.

Assignments and Insolvency. A debtor may prefer one creditor to another, and may create a *bona fide* lien, by mortgage or other legal means, may sell in payment of the debt, or transfer papers as collateral security. But every assignment made by a debtor insolvent at the time, either in trust or in behalf of creditors, is fraudulent, and null and void, when any trust or benefit is reserved to the assignor, or any person for him. There is no imprisonment for debt. Voluntary assignments shall have attached to them, sworn to by the person making assignment, "a full and complete inventory and schedule of all the assets of every kind held, claimed or owned by such insolvent person, firm or corporation" and of the creditors in detail, giving name and amount of each, and their residence at the time of making assignment. Filing false, deceptive or incomplete schedule is punished as perjury. In case any corporation (not municipal), or trader, or firm of traders, shall fail to pay matured paper and be insolvent, three or more unsecured creditors, or creditors representing one-third in amount of unsecured claims, may file a bill in equity, have a Receiver appointed, and an injunction granted to restrain interference with such Receiver. The Receiver shall collect assets, and under the direction of the Court distribute the same *pro rata* among creditors, recognizing, however, liens created before the filing of the creditor's bill. Any creditor may become a party to a bill of this kind. The Chancellor at the end of the suit may, if he considers it a proper case, recommend the debtor released from the remainder of his debts. It has been decided that a bill of this kind will not lie after a dissolution of the firm.

Attachment process may issue when defendant resides out of the State, is about to remove without the limits of the county, absconds, conceals himself, or resists legal arrest, attempts to remove property beyond the State, or fraudulently disposes of property, or shall threaten or prepare so to do, or creates a fraudulent lien thereon. Attachment lies at any time to recover purchase money when due, when the property purchased remains in the possession of the debtor, or of any one holding the same for the benefit of the debtor, or in fraud, against the creditor. Plaintiff must file bond in double the amount involved. First attachment levied has priority. Garnishment issues in aid of attachment or judgment, but journeymen mechanics and laborers are exempt from garnishment on their daily, weekly or monthly wages. The maker of negotiable paper in the hands of plaintiff's debtor is liable to a garnishment.

Courts. Terms and Jurisdiction. Superior Court sits in each county twice a year, and has original jurisdiction in law and equity, except in probate matters, which are passed upon by the Courts of Ordinary, which hold terms on the first Monday of each month. Justice's jurisdiction, \$100. In cities there are City Courts, generally with unlimited jurisdiction, except in suits respecting title to land, equity and felony cases.

Executions may issue at any time after judgment is signed and filed, and may be levied at once, and are returnable at the next term of court. Stay of sixty days may be had by giving bond and security. In Justice's Courts stay is sixty days where over \$30 are involved; forty days, below that sum. Property must be advertised once a week, for four weeks, before sale. No redemption of property sold under execution except for tax, when owner may redeem within one year.

Exemptions. The Constitution of 1877 provides that there "shall be exempt from levy and sale, by virtue of any process whatever under the laws of this State, except as hereinafter excepted, of the property of every head of a family, or guardian, or trustee of a family of minor children, or every aged or infirm person, or person having the care and support of dependent females of any age, who is not the head of a family, realty or personalty, or both, to the value in the aggregate of \$1,600." The exceptions are for taxes, purchase money of the homestead, labor done thereon or material furnished therefor, or for the removal of incumbrances. The debtor has power to waive or renounce in writing the right of exemption thus provided, except as to wearing apparel, and not exceeding \$300 worth of household and kitchen furniture, and provisions, to be selected by himself and his wife, if any; and he shall not, after it is set apart, alienate or encumber the property so exempted, but it may be sold by the debtor, and his wife, if any, jointly, with the sanction of the Judge of the Superior Court of the county where the debtor resides, or the land is situated, the proceeds to be reinvested upon the same uses.

Interest. Legal rate is seven per cent., but contracts in writing may be made up to eight per cent. Usury forfeits excess charged. Judgments bear lawful interest. Deeds tainted with usury are void as title.

Judgments are liens from their date, on all real and personal property of the debtor not specially exempted, except promissory notes in hands of defendant. Stocks in incorporated companies are made specially liable by statute. Judgments are rendered only at second term of Superior Court, and City Courts, except in the City

Court of Atlanta where cases stand for trial at first term. Judgments become dormant in seven years, if no execution is issued upon them, but may be revived by proceedings within three years from the time they become dormant. Judgments in United States Courts and Justice Courts must be registered in the office of the Clerks of Superior Courts within ten days to affect innocent purchasers. In counties, other than where obtained, within thirty days. Against non-residents must be recorded in ten days in county where property is located to affect it so far as third parties are concerned.

Limitations of Suits. Open accounts and contracts not in writing, four years; contracts in writing not under seal, six years; bonds and instruments under seal, twenty years; foreign judgments, five years. Revivor: New promise in writing, or payment on note indorsed by debtor. Adverse possession of land for twenty years gives good title by prescription, except against the State, and persons under disability; and adverse possession for seven years, under written evidence of title, gives like title by prescription, unless the title be forged or fraudulent. A like title to personalty is acquired by four years adverse possession.

Married Women. All property of the wife in possession at the time of marriage, or afterwards acquired by her, is her separate property, and not liable for the payment of any debts, defaults or contracts of the husband. Wife can not bind her separate estate by any contract of suretyship, whether in behalf of her husband or any other person. The wife, by consent of her husband, published for one month in a newspaper, may become a *free trader*, in which event she is liable as a *femme sole*. Widow takes dower in one-third of all the lands of which her husband was seized at his death.

Mortgages pass no title, and are simply a security for a debt. Must be executed and proved before a Notary Public, Justice, or Clerk of the Superior Court, and should be recorded at once to affect purchasers and subsequent mortgagees without actual notice. Mortgages on realty require one witness besides the attesting officer. Mortgages on personal property are foreclosed instantly and *ex parte*. On real estate a rule *nisi* issues at one term, and rule absolute at next.

Notes and Bills of Exchange. Notes and contracts taken for personal property delivered to purchaser, which contain reservation of title in seller, must, to make the reservation good, be recorded at once, and be attested by Notary or other official. Deeds to realty and bills of sale to personalty, made to secure debts, should be recorded at once. Deeds in county where the land lies, and bills of sale in county of maker's residence. No days of grace are allowed on sight papers. When bills of exchange and promissory notes are made for the purpose of negotiation, or intended to be negotiated at any chartered bank, and the same are not paid at maturity, notice of the non-payment thereof and of the protest of the same for non-payment or non-acceptance must be given to the indorsers thereon within a reasonable time, either personally or by post, or the indorser will not be liable thereon; but it shall not be necessary to protest in order to bind the indorser, except in the following cases, to wit: 1st. When a paper is made payable on its face at a bank or banker's office. 2d. When it is discounted at a bank or banker's office. 3d. When it is left at a bank or banker's office for collection. And in all such cases days of grace must be allowed. The last day of grace is the day of maturity. Accommodation indorsers are sureties, and indorsers may be sued in the same county and action with the maker, drawer, or acceptor. A recent statute provides that the 1st day of January, 22d of February, 26th of April, 4th of July, 25th of December, and any day appointed by the Governor of the State, President of the United States, or the civil authorities of any city, as a fast day or thanksgiving day, shall be held and considered as Sunday, for all purposes connected with presenting for acceptance or payment, and protesting and giving notice of dishonor, of any bill of exchange, draft, note, check or order. If a holiday fall on Saturday, paper due on Sunday payable on Monday. If holiday fall on Monday, paper due that day is payable on Tuesday. Bills of exchange must be accepted, in writing, to bind acceptor. In this State it is usual to insert in promissory notes a clause requiring the maker to pay all cost of collection including Attorney's fees, but Attorney's fees cannot be collected unless a defense is filed and not sustained, and a waiver of all homestead exemption as against the amount promised is a bar to homestead or exemption as against such demand. By act of 1887, warehouse and elevator receipts, bills of lading and other commercial paper symbolic of property, including promissory notes may be delivered in pledge or pawn.

Suits. Actions at law and equity must be brought twenty days before the term of court at which they are returnable, except suits in Justice's Courts for less than \$100, when fifteen days suffice. Claims sent to this State for collection should be accompanied by full name of each plaintiff, if a partnership, or legal style of a corporation, if plaintiff be such. Accounts and unliquidated demands should be itemized. Affidavits of correctness of accounts are valuable when the amount is \$100, or less; when a greater amount is involved, they are useless as evidence.

Taxes are first lien on all property; property sold under tax *fi. fas.* may be redeemed in one year.

IDAHO.

BANKING LAW.

(Compiled by GEO. H. STEWART, Attorney-at-Law, Boise City.)

There is no statute in relation to banking. Any person or persons can engage in the business without asking any questions, and is responsible only to those with whom he deals. No charters can be granted for banks.

COMMERCIAL LAW.

Acknowledgments of conveyances of real estate may be taken within the Territory by any judge or clerk of a court having a seal, or any justice or notary public. Elsewhere within the United States or Territories, by judge or clerk of a court of record, or any commissioner of deeds for Idaho. In foreign countries by a judge or clerk of a court having a seal, a notary public, or a minister, commissioner, or consul of the United States, appointed to reside therein. Witnesses are not required to conveyances, but every conveyance affecting the real estate must be acknowledged or proved and certified. In relation to conveyances of real estate belonging to the community, the wife must join in the conveyance only when it affects the homestead. (*Session laws, 1884-85.*)

Assignments and Insolvency. An insolvent debtor may be discharged of his debts by executing an assignment of all his property, real and personal, which, with a sworn inventory of property and schedule of creditors, must be filed in the District Court. At a creditor's meeting, held after thirty days' notice given, one or more assignees, not exceeding three, are appointed, and claims proved. Court will set aside property exempt, and issue order for direct payment of money, where no mortgage or pledge had been given, or where such security, if given, has been rendered negatory by act of defendant. Plaintiff must furnish bond, with two sufficient sureties.

Attachments. The plaintiff at the time of issuing the summons, or at any time afterwards, may have the property of the defendant attached as security for the satisfaction of any judgment that may be recorded, unless the defendant give security to pay such judgment, in the following cases:

1. In an action upon a judgment, or upon contract, express or implied, for the direct payment of money, where the contract is not secured by any mortgage or lien upon real or personal property, or any pledge of personal property.

2. In an action upon a judgment, or upon contract, express or implied against a defendant not residing in this State.

Debt must be due to support attachment.

Garnishment process may issue in aid of attachment or execution and the garnishee must make answer under oath. Defendant in a civil action for recovery of money or damages, under a contract, express or implied, may be arrested, when about to depart from the Territory with intent to defraud, or when the debt or obligation was fraudulently contracted.

Bills of Lading. No statutory provisions governing the same.

Contracts. All persons are capable of contracting except minors, persons of unsound mind, and persons deprived of civil rights. A written instrument is presumptive evidence of a consideration. All contracts may be oral, except such as are specially required by statute to be in writing. All distinctions between sealed and unsealed instruments are abolished. Where a contract is partly written and partly printed, the written part controls the printed part.

Corporations. All foreign corporations must, within three months after beginning operations, file with the Secretary of State, also with the Clerk of the District Court, in the county where the principal office is located, a designation of some agent upon whom process can be served.

Penalty. The denial to the corporation of the benefit of the statutes, limiting the time of the commencement of civil actions.

Collaterals. No statutory regulation.

Courts. Terms and Jurisdiction. The Judge of the District Court, of each of the judicial districts of the State, must annually fix the time for holding the District Court, in the several counties of his district, by an order filed and entered by the Clerk in each county of his district, and said order must be published two consecutive weeks in a newspaper published in his district; and he may hold such special terms as he deems proper and necessary, by an order published in the newspaper in the county where he is to hold such special term, two consecutive weeks, and have original jurisdiction in all civil cases involving over \$100. Probate Courts are held in each county once a month, and have concurrent jurisdiction up to \$500, and concurrent jurisdiction with Justice's Courts in all cases. Justice's jurisdiction, \$300.

Days of Grace. Abolished by the statute.

Depositions. May be taken before any Judge, Justice of the Peace, Notary Public or United States Commissioner, or any other person agreed upon by the parties, upon notice served upon the opposite party, stating the court, action, time and place and before whom the same will be taken, allowing one day for every twenty miles required to be traveled to reach the place where the same will be taken, or they may be taken upon commission issued by the judge with interrogatories attached.

Executions issue at any time within five years after judgment. The only stay is by appeal, with secured bond. Six months allowed for redemption.

Exemptions. Homestead, not exceeding \$5,000, if duly acknowledged and recorded; office furniture and library, \$100; necessary household and kitchen furniture, and provisions for family for three months; certain farm animals, etc., with food for three months; tools and implements of husbandry up to \$200. Libraries of professional men, and team used by a laborer or teamster, are also exempt.

Interest. Legal rate, 10 per cent; parties may agree in writing for 1½ per cent. per month. Penalty for usury, 10 per cent. per annum on principal.

Judgments are liens on all real estate of debtor within the county, from time of docketing, and may be extended to other counties by filing transcript in Recorder's office. Lien continues two years. Justice's Court judgments become liens when certified and recorded. May be revived by issuing execution within limitation.

Limitation to Suits. Contracts not in writing, four years; instruments in writing, five years; judgments and decrees, six years. Revivor: Only by instrument in writing; part payment does not.

Married Women. All property, real or personal, acquired before marriage and acquired after marriage, by gift, bequest, devise or descent, wife's separate property; all other property acquired after marriage, common property; wife must record inventory of separate property. No estate as tenant by courtesy allowed the husband, nor dower to the wife. Half the common property goes to the surviving husband or wife; if no descendants, half of common property subject to will of deceased, or, in case no will, goes to heirs of deceased.

Mortgages. A real estate mortgage must be acknowledged and certified, and recorded in like manner as conveyances and deeds of real property, and is foreclosed by action in the District Court.

Chattel Mortgages must be acknowledged as real estate mortgages, and sworn to by the mortgagor that the same is made in good faith without any design to hinder, delay, or defraud creditors. May be filed or recorded. Survives as long as the debt.

Notes and Bills of Exchange. Commercial paper is the same as defined by the common law. There must be a payee and payor, and must be paid in money. Place of payment, if no place designated in the instrument is where it was made, and becomes commercial or negotiable by being executed and delivered, and is made negotiable by indorsement, what is called "in blank." Damages for protested bills: Domestic, 15 per cent.; foreign, 30 per cent. Notes or bills becoming due on any holiday, to-wit: New Year's day, Twenty-second of February, Fourth of July, Thanksgiving and Christmas day, or on Sunday, would be payable the day previous.

Suits. Civil practice is under a code similar to that of California (which see).

Taxes. Beginning on the 1st day of January, 1894, the locus of property for taxation, relates to the 2d Monday of January, and is a lien upon the property from that date.

Wills. Every person over the age of eighteen years, and of sound mind, may make a will. Every will, other than a nuncupative will, must be in writing, and every will other than an olographic and a nuncupative will, must be executed by the testator subscribing thereto or some person by his direction, which must be done in the presence of two attesting witnesses, each of whom must sign his name and state that the testator requested him to witness the testator's signature, and the testator must also declare in the presence of the witnesses, that such is his last will and testament.

ILLINOIS.

BANKING LAW.

(Revised by CRATTY BROS., JARVIS & CLEVELAND, Attorneys at Law, Chicago.)

The constitution of 1870 provides, That statutes authorizing associations with banking powers shall be submitted to a vote of the people before taking effect.

That all stockholders in such associations shall be individually liable to the creditors in addition to the amount of their stockholding to an amount equal to the amount of their stock, for debts accruing while they remain stockholders.

That specie payment on circulation shall not be suspended, and quarterly statements of its affairs shall be made under oath, and provision is made for record in Recorder's office of the names of stockholders.

Pursuant to this constitution the Legislature, at its session in 1887, passed a general banking law, which was approved at the election of November 5, 1887; and amended same at its sessions in 1889, and the amendment was approved at the election of November 4, 1890. Substantially this law is as follows: Associations may be formed to do a general banking business (except the issuing of bills to circulate as money), including loans on personal and real estate security, and accepting and executing trusts. The capital required is, in cities of 5,000 population or under, \$25,000; between 5,000 and 10,000 population, \$50,000; between 10,000 and 50,000 population, \$100,000; 50,000 population and upwards, \$200,000. Impairment of capital must be made good on notice from the State Auditor. The stock being fully subscribed, a meeting of the stockholders on not less than three days' notice, shall be held, at which the number of directors shall be determined, and they elected.

They hold office for one year, and until their successors are elected. The directors thereupon organize and elect officers, make by-laws, and arrange for the transaction of business. They are required to take an oath of fealty to the association and observance of the banking act.

Vacancies may be filled by a two-thirds vote of remaining directors. Upon complying with these provisions, the Auditor makes examination, and if satisfied that capital has been paid in, issues a certificate of organization upon payment of reasonable expenses. This certificate must be filed in the office of Recorder of Deeds of the county where the bank is organized, and upon recording such certificate the association may proceed to business.

Stockholders are severally liable for all engagements of the association to an amount equal to their respective stockholdings, at par value, in addition to the amount invested in their share of stock.

Certified list of stockholders shall be filed in the Recorder's office within ten days after organization, and certificates of all transfers not later than ten days after such transfer. Transfer will not release liability on unpaid stock, and there is no release of stock liability until transfer is recorded.

Reports under oath of President or Cashier shall be made on call of the Auditor at least once in three months, showing resources and liabilities in detail, which report shall be published in some newspaper of the place where the bank is located.

At least once a year the Auditor shall cause an examination of the bank to be made by a suitable person not a stockholder, officer or employé of the bank, who shall make a detailed report of his examination, and shall have power to examine officers, employés, or agents on oath.

Such associations shall carry as assets real estate necessary to do its banking business, and, for a period of five years, such other real estate as it may obtain title to in the collection of debts.

Provisions are also made for change of names, number of directors, capital stock, and consolidation with other like associations. The stockholders may close up business and distribute assets by resolution, on depositing with Auditor money sufficient to pay demands against it and expenses of the proceeding.

There is no provision of law for the inspection of private banking firms not organized under the statutes.

Building associations, which of late have multiplied greatly, and receive large sums of money, and, to some extent, take the place of savings banks, are, by a law passed at the last session of the Legislature, required to report to the State Auditor quarterly, and are subject to examination on request of five stockholders.

COMMERCIAL LAW.

Acknowledgments of any instruments relating to the sale, conveyance or other disposition of real estate, or any interest therein, situate in this State, may be made before one of the following officers: *First*—When acknowledged or proved within this State, before a Master in Chancery, Notary Public, United States Commissioner, Circuit or County Clerk, Justice of the Peace, or any court of record having a seal, or any Judge, Justice or Clerk of any such court. When taken before a Notary Public or United States Commissioner, the same shall be attested by his official seal; when taken before a court or the Clerk thereof, the same shall be attested by the seal of such court; and when taken before a Justice of the Peace, there shall be added the certificate of the County Clerk, under his seal of office, that the person taking such acknowledgment or proof was a Justice of the Peace in said county at the time of taking the same. If the Justice reside in the county where the lands mentioned in the instrument are situated, no such certificate shall be required. *Second*—When acknowledged or proved without this State and within the United States or their Territories, or the District of Columbia, before a Justice of the Peace, a Notary Public, United States Commissioner, Commissioner to take acknowledgments of deeds, Mayor of a city, Clerk of a county, or before any Judge, Justice, or Clerk of the Supreme or any Circuit or District Court of the United States, or any Judge, Justice or Clerk of the Supreme, Circuit, Superior, District, County or Common Pleas Court, of any of the United States or their Territories. When such acknowledgment or proof is made before a Notary Public, United States Commissioner, Commissioner of deeds, Mayor of a city, or Clerk, it shall be certified by such officer, under his seal of office. If before a Mayor of the city, it shall be certified under the seal of the city. If before a Justice of the Peace, there shall be added a certificate of the proper Clerk, under the seal of his office, setting forth that the person before whom such proof or acknowledgment was made was a Justice of the Peace at the time of making the same. An acknowledgment or proof may be made in conformity with the laws of the State, Territory or district where it is made. *Third*—When acknowledged or proved without the United States, then before any court of any Republic, State, Kingdom or Empire having a seal; or any Mayor or chief officer of any city or town having a seal; or before any Minister or Secretary of Legation, or Consul of the United States in any foreign country, attested by his official seal; or before any officer authorized by the laws of such foreign country to take acknowledgments of conveyances of real estate, such deed to be attested by the official seal of such court or officer, if he have a seal. Where such acknowledgment or proof is taken other than before a court of record, or Mayor, or chief officer of a town having a seal, proof that the officer taking such acknowledgment was duly authorized by the laws of his country so to do, shall accompany the certificate of such acknowledgment. Such acknowledgment or proof may also be made in conformity with the laws of any foreign State, Kingdom, Empire, or country; which conformity may be shown by the certificate of any Consul or Minister of the United States in said country, under his official seal, or by other legal proof. No deed or other instrument shall be construed as releasing or waiving the right of homestead, unless the same shall contain a clause expressly releasing or waiving such right, and in such case the certificate of acknowledgment shall contain a clause substantially as follows: "including the release and waiver of the right of homestead." Acknowledgments of chattel mortgages must be made before a Justice of the Peace of the town or precinct where the mortgagor resides; or, if there be no acting Justice of the Peace in the town or precinct where the mortgagor resides, then such instrument may be acknowledged before the County Judge of the county in which the mortgagor resides; or, if the mortgagor is not a resident of this State at the time of making the acknowledgment, then before any officer authorized by law to take acknowledgments of deeds.

Assignments. The County Court has jurisdiction in cases of voluntary assignment for the benefit of creditors, which assignments must be duly acknowledged, filed in the office of the Clerk of the County Court, and recorded in the county where the assignor resides, or where the business has been carried on, and in the county or counties where land embraced in the assignment is situate. Assignee must file bond, inventory and valuation, and send notice by mail to creditors of whom he shall be informed, to present claims under oath, within three months from publication of notice. Claims not so presented do not participate in dividends until after the payment in full of all claims properly presented and allowed. Assignee is required to make equal dividends among creditors at the first term of court after the three months allowed, and to render a final account within one year. Every provision in any assignment providing for the payment of one debt or liability in preference to another is void, and all debts and liabilities within the provisions of the assignment shall be paid *pro rata* from the assets thereof, except claims for wages of laborer or servant earned within three months next preceding the making of such assignment, which, if allowed, are first paid, after costs, commissions, and expenses of assignment, to the exclusion of other claims. Claims may be revised or contested before the court; and assignee is at all times subject to

the order and supervision of said court, or the Judge thereof. Debtor may be subjected to examination touching his estate. No provision is made for the discharge of the debtor. All proceedings may be discontinued upon the assent, in writing, of the debtor and a majority of the creditors in number and amount.

Attachment. The writ may issue out of courts of record on claims exceeding \$20, when the debtor is non-resident; conceals himself, or stands in defiance of an officer, so that process can not be served on him; has departed from this State with the intention of removing his effects therefrom, or if he is about to do so; where he has, within two years preceding, fraudulently conveyed, assigned, concealed or disposed of his property, or a part thereof, so as to hinder or delay creditors; where he is about fraudulently to conceal, assign or otherwise dispose of his property or effects, so as to hinder or delay his creditors; or where the debt sued for was fraudulently contracted by statements in writing signed by the debtor, his agent or attorney. Before the writ can issue, the plaintiff, his agent or attorney, must make affidavit to one or more of these facts, and give bond, with approved security, in double the amount of the claim sued on. Attachment writs may issue out of Justice's Courts, on the same grounds, on all claims not exceeding \$200. Garnishment process may issue in cases of attachment, or on return of execution unsatisfied, but the wages of any person who is the head of a family and resides with the same, to the amount of \$50, are exempt therefrom. Arrest on civil process lies only in case of fraud, on judgments in tort, or on refusal of debtor to surrender his estate for benefit of creditors.

Corporations. Corporations may be formed under the general Incorporation Act for any lawful purpose except banking, insurance, real estate, brokerage, the operation of railroads, and the business of loaning money. Separate acts are provided for these. Application must be made to the Secretary of State for license to incorporate by not less than three nor more than seven persons. When such license is granted and the capital stock is fully subscribed, a meeting of the subscribers shall be held to elect directors or managers, the number to be not less than three nor more than eleven. At such election and at all meetings each share of stock shall be entitled to one vote, which may be represented either in person or by proxy. Cumulative voting may be had. When such stock shall have been all subscribed and the directors elected, the commissioners shall make report to the Secretary of State, who thereupon issues a certificate of final incorporation, including copies of all papers, for which \$25 must be paid. This certificate must be filed in the office of the Recorder of Deeds in the county where the principal office of such company is located. Then the corporation shall be deemed fully organized and may proceed to business. Corporations thus organized may sue and be sued the same as natural persons, may hold the real estate necessary for its business, but no more, except on conditions and certain restrictions. The business of a corporation shall be controlled by a Board of Directors, who shall be liable for debts of the corporation contracted in excess of the amount of its capital stock, if assented to by such directors. Directors can not act by proxy. Shares of stock shall be not less than \$10 nor more than \$100 and shall be deemed personal property, to be levied on as such. No stock liability exists except for the unpaid balance due thereon. Any assignee of such stock is liable for the unpaid balance, the same as the original holder, but the assignor shall not thereby be released from his liability. Directors assenting to the payment of dividends by an insolvent corporation, or the payment of which would make it insolvent, shall be jointly and severally liable for the debts of such insolvent corporation. Foreign corporations and the officers and agents thereof doing business in this State shall be subject to all the liabilities, restrictions, and duties of domestic corporations, but shall have no other nor greater powers. Correct books of account of all its business shall be kept at its principal office. Every stockholder shall have the right at all reasonable times to examine such records and books.

Courts. Terms and Jurisdiction. Circuit Courts have original jurisdiction in all cases in law and equity, and hold two or more terms in each year, in each county. County Courts have probate jurisdiction (except in counties where Probate Courts are established), and have also a limited civil and criminal jurisdiction. In counties having a population of 70,000 or more, Probate Courts are established. Only two counties, Cook and Peoria, have Probate Courts. Provision is made for City Courts of special civil and criminal jurisdiction. Justices of the Peace have jurisdiction limited to \$200. Appellate Courts and a Supreme Court exercise appellate jurisdiction. Cook County has a special Superior Court of jurisdiction concurrent with that of the Circuit Court, and has also a special Criminal Court.

Days of Grace. No promissory note, check, draft, bill of exchange, order or other negotiable or commercial instrument, payable at sight or on demand, shall be entitled to days of grace. All other bills of exchange, drafts, or notes shall be entitled to the usual days of grace.

Depositions. The testimony of any witness residing within this State more than 100 miles from the Court, or not residing in this State, may be taken by the party desiring to use the same, under a commission of the Court, upon written interrogatories. The deposition of a non-resident witness may be taken on oral interrogatories, under a commission of the Court, upon giving to the adverse party ten days' notice, and one day additional for every 100 miles traveled from the Court to the place of taking the deposition. When the notice has been delivered for the taking of the deposition of a non-resident witness upon written interrogatories, the adverse party may, upon giving three days' notice of such election, have a commission issued to take the deposition upon oral interrogatories. Notice to take depositions when the adverse party is not a resident of the county in which suit is pending, and no attorney has appeared for the party, an affidavit of such fact stating the place of residence of such adverse party, or that his place of residence can not be ascertained, may be mailed to the address of the non-resident defendant, if known, or posted on the door of the court house where suit is pending, or published in the nearest newspaper when address is not known. Commission may issue to any Judge, Master in Chancery, Notary or Justice, or to any competent or disinterested person as commissioner. The return of the officer taking the deposition must be accompanied by a certificate of his official character, under seal of the State, or under the seal of

the proper Court of Record of the county wherein deposition is taken. Where deposition is taken on written interrogatories neither party, his attorney, nor other person interested, is allowed to be present, nor to dictate or write any deposition. Every witness is allowed a fee of \$1 for each day's attendance, and 5 cents per mile each way for necessary travel. When a party to a suit, after having given the opposite party notice to take deposition upon oral interrogatories, shall fail to take the same, and the opposite party shall attend either in person or by attorney, he shall be entitled to \$2 per day for each day of such attendance, and to 6 cents per mile for every mile necessarily traveled by him in going to and returning from the place designated to take the deposition.

Evidence. Interested parties may testify on their own behalf in civil actions, with a few exceptions. A husband and wife shall not be allowed to testify for or against each other, except when he or she shall have acted in the subject matter of the controversy as agent for the other.

Executions may issue immediately after rendition of judgment, and to any county in the State. Executions are liens on personal property from date of delivery of the writ to Sheriff or other officer. Executions do not issue on justices' judgments for twenty days after rendition, unless oath be made that debt is in danger of being lost; thereafter execution may issue on such judgment at any time within seven years after rendition thereof. Real estate can not be levied upon or sold by virtue of any execution issued by a Justice of the Peace. Real estate is sold on execution, without appraisal, to the highest bidder; and, if the debtor so elects, his real estate must be exhausted before his personal property can be seized under execution issued out of a court of record. No stay law. Defendant may redeem within twelve months after the sale of real estate, on payment of the amount it was sold for, with eight per cent. interest and costs. If he fail to redeem within such time, any one of his decree or judgment creditors may redeem after that and within fifteen months from the time of the sale.

Exemptions. To every householder having a family, a homestead, valued at \$1,000; and such exemption continues to the survivor, after the death of the husband or wife, so long as he or she occupies it, and to the children until the youngest is twenty-one years old. In addition, there is also allowed to every person necessary wearing apparel, Bibles, school books, family pictures, and \$100 worth of other property selected by the debtor. If the debtor is the head of a family, and resides with the same, he is allowed \$300 worth in addition, to be selected by him. But such selection can not be made from any money or wages due. Of wages there are \$50 exempt from garnishment to any one who is the head of a family residing with the same. No exemption is allowed when the debt is for the wages of laborer or servant. Wages to amount of \$50, earned within six months, are preferred debts in cases of insolvency of debtor owing such wages.

Interest. Legal rate, five per cent., but special agreement may be made for seven per cent. or less, by statute in force July 1, 1891. Forfeiture of all interest is penalty for usury. Legal rate of interest is collectible on moneys due on all instruments in writing; on money lent or advanced for the use of another; on money due on settlement of account, from day of liquidating account and ascertaining balance; on money received to the use of another, and retained without the owner's knowledge; on money withheld by unreasonable and vexatious delay, and on judgments. In computations of time, interest and discounts upon negotiable instruments, a month is construed to mean a calendar month, and a year to consist of twelve calendar months; and for any number of days less than a month, a day is considered a thirtieth part of a month, and interests or discounts shall be computed for such fractions of a month upon the ratio which such number of days shall bear to thirty.

Judgments of courts of record are liens on the real estate of the party against whom they are obtained, situated in the county where the court is held, for the period of seven years, and may be made a lien on such real estate in any other county, by filing a transcript thereof in the office of the clerk of any court of record in such other county. When execution is not issued on a judgment within one year from the time the same becomes a lien, it thereafter ceases to be a lien; but execution may issue on such judgment at any time within seven years, and shall become a lien on any such real estate from its delivery to the Sheriff, or other proper officer, to be executed. Judgments rendered at the same term of court, or on the same day in vacation are of concurrent lien. Judgment of court of record may be revived by *scire facias* at any time within twenty years. A judgment of a Justice of the Peace may be made a lien on real estate by filing a transcript thereof in the Circuit Court, but must otherwise be satisfied out of personal property only, and such judgments may be sued on at any time within ten years from their rendition.

Limitation of Suits. Actions for slander or libel, one year. Actions for damages for an injury to the person, or for false imprisonment, or malicious prosecution, or for a statutory penalty, or for abduction, or for seduction, or for criminal conversation, two years. Actions on unwritten contracts, express or implied, or on awards of arbitration, or to recover damages for an injury done to property, real or personal, or to recover the possession of personal property, or damages for the detention, or conversion thereof, and all civil actions not otherwise provided for, including actions on foreign judgments, five years. Actions on bonds, promissory notes, bills of exchange, written leases, written contracts, or other evidences of indebtedness in writing, ten years; but if any payment, or new promise to pay, shall have been made in writing, on any bond, bill, lease, contract, or other written evidence of indebtedness, within or after said period of ten years, then an action may be commenced thereon at any time within ten years after the time of such payment or promise to pay. Where a cause of action has arisen in a State or Territory out of this State, or in a foreign country, and, by the laws thereof, an action thereon can not be maintained, by reason of the lapse of time, an action thereon shall not be maintained in this State. Judgments in any court of record in this State twenty years. All actions for recovery of lands are barred in twenty years; and may be barred in seven years in special cases.

Married Women. A married woman may sue and be sued, possess her own earnings, contract and incur liabilities, purchase, sell and hold personal property, and own and hold real estate to the same extent as an unmarried woman. Her husband is not liable for her debts or torts; except in cases where he would be jointly liable if the marriage did not exist, or for necessities. She can not enter into a partnership without consent of her husband, unless he has abandoned her or be incapable of giving assent. No transfer of chattels between husband and wife living together is valid as against third parties, unless such transfer is in writing and is acknowledged and recorded as chattel mortgages are required to be acknowledged and recorded. A married woman may make a will as if sole. Both husband and wife are liable for family expenses. The estate of curtesy is abolished, and the surviving husband or wife is endowed of a third part of the lands whereof the deceased was seized of an estate of inheritance at any time during the marriage, unless relinquished in due form.

Mortgages. Mortgages on real estate are executed and acknowledged the same as deeds, husband or wife being required to join to bar dower, except in mortgages to secure purchase money. All such instruments must be foreclosed by judicial proceedings.

Chattel Mortgages are invalid as to third parties, if given for longer than two years, unless extended for a further term of not more than two years from maturity, in accordance with statute. Neither are they valid as to third parties, if the property mortgaged is allowed to remain in the possession of the mortgagor, unless the mortgage expressly provides that it shall so remain. The mortgagee may lose his lien, as against third parties, if he does not take possession of the mortgaged property within twenty-four hours after the mortgage is due. As between the parties, a chattel mortgage is good, if it is neither acknowledged nor recorded. Both husband and wife must join in chattel mortgage of household goods. Chattel mortgage of necessary household goods, wearing apparel, or mechanic's tools, must be foreclosed in a court of record, and no such chattels can be seized on behalf of the mortgagee, before foreclosure, except by Sheriff acting upon the order of a Judge of a court of record.

Notes and Bills of Exchange. Upon bills of exchange drawn or indorsed within this State, and payable without the United States, duly protested, ten per cent. damages are collectible, together with interest, costs and charges of protest; and if payable within the United States, five per cent. damages, with interest, costs and charges, can be collected in case of suit. In this State the other rights of parties to bills of exchange and checks are governed by the *law merchant*; but the rights of parties to promissory notes are modified by statute. Indorsers of a note can not be held liable, unless the maker thereof has been diligently prosecuted by suit, or unless such suit would have been unavailing or the maker be out of the State at the time such note became due. In order to hold a guarantor, suit against the maker is not necessary. Notes obtained by fraud or circumvention can not be collected, even by an innocent holder. If any one become the owner of a note, or any other instrument in writing, after it is due, the maker thereof can interpose the same defense as against him, that he might have set up as against the original holder. No notice of non-payment or protest is necessary in order to fix the liability of indorsers of notes. Grace is not allowed on instruments payable at sight, on demand, or on presentation, but all other instruments are entitled to the usual days of grace. January 1, February 12 and 22, May 30, July 4, First Monday in September (Labor Day), December 25, and any day appointed or recommended by the Governor of this State, or by the President of the United States, as a day of Fast or Thanksgiving, are made legal holidays, and as regards the presenting for payment or acceptance, and the maturity, protesting and giving notice of dishonor of negotiable or commercial instruments, are treated as Sundays. When any such holiday falls on Sunday, the Monday next following is held the holiday. All evidences of indebtedness maturing on Sunday or either of such holidays are to be deemed maturing on the day previous; and when two or more of these days immediately succeed each other, such indebtedness is deemed to mature on the day previous to the first of such days. By an Act for regulating elections, approved June 19, 1885, it is provided that any city, village or incorporated town in this State may, by vote, adopt such Act; and that the days on which the general State, county or city elections shall be held in such city, village or town, shall be holidays, and shall be treated as Sundays, as regards days of grace on commercial paper, and the presentation for payment or acceptance, and the protesting and giving notice of the dishonor of bills of exchange, checks and notes.

Suits. All except local actions are brought in the county where defendant resides or is found; and where there are several defendants, suit may be brought where one resides, and process issued to any other county for the other defendant; but no judgment will be rendered against such other defendant unless he appears and defends, or unless plaintiff succeeds in getting judgment against the one who resides or is found in the county where suit is brought. Non-resident plaintiffs must give bonds for costs. Process must be served ten days before the commencement of return term. In Justice's Courts summons is returnable in not less than five, nor more than fifteen days, and must be served at least three days before the time of trial.

Taxes. State and county taxes are payable after December 1, and the delinquent list is turned over to the County Collector on or about March 10, following. Advertisement of real estate on which taxes remain unpaid, is made after April 1, following, and judgment for the sale thereof is obtained at the following May term of the County Court, or thereafter, which sale begins on the day fixed therefor in said advertisement. Delinquent taxes on real estate bear interest at the rate of one per cent. per month after May 1, fractions of a month being reckoned as a whole month. After tax sale of delinquent real estate, redemption may be made within two years. Penalty is: Within six months, 25 per cent. interest; twelve months, 50 per cent. interest; eighteen months, 75 per cent. interest; two years, 100 per cent. interest; together with all subsequent taxes paid by purchaser, with interest at 10 per cent. per annum, and all costs.

INDIANA.

BANKING LAW.

(Revised by U. J. HAMMOND and E. S. G. ROGERS, Attorneys at Law, Indianapolis.)

The constitution provides that no bank, banking company or moneyed institution for the purpose of issuing bills of credit, or bills payable to order or bearer, shall be established save under a general banking law to be thereafter enacted. The constitution expressly excepts a bank with branches, mutually responsible for each other's liabilities upon all paper credit issued as money, and from which no collateral security is required; as to which the constitution allows a special charter. Pursuant to the constitution, the General Assembly has enacted a general banking law. Its provisions apply to the establishment and conduct of banks of discount and deposit. The Auditor of the State, with the approbation of the Governor, as often as shall be deemed necessary or proper, must appoint a suitable person or persons to make an examination of the affairs of every bank established under the general banking laws; which person shall not be a director or other officer of the bank, and shall have power to make a thorough examination into all the affairs of the bank, and, in doing so, to examine any of the officers and agents thereof on oath, and shall make a full and detailed report of the condition of the bank to the Auditor, and the association shall not be subject to any other visitatorial powers than such as are vested in the several courts of the State. The State banks must make to the Auditor of the State not less than five reports each year, according to the form which may be prescribed by him, verified by oath or affirmation of the president, cashier, or other managing agent, which reports must exhibit, in detail, and under appropriate heads, the resources and liabilities at the close of business on any past day to be by him specified, and must transmit such report to the Auditor within five days after the receipt of a request or requisition therefor from him. The report so required, in the same form in which it is made to the Auditor, must be published in a newspaper published in the place where the bank is established, or, if there is no newspaper in the place, then in one published nearest thereto in the same county or an adjoining county, at the expense of the bank; and such proof of publication shall be furnished as may be required by the Auditor. The Auditor has power to call for special reports from any particular bank, whenever, in his judgment, it shall be necessary in order to a full knowledge of its condition. Any bank failing to make and transmit any such report shall be subject to a penalty of \$100 for each day, after five days, that it delays to make and transmit the same.

The investment of money deposited in Savings banks in this State is limited by law to: 1. Stocks, or bonds or Treasury notes of the United States; 2. Stocks or bonds of this State; 3. Orders or bonds of any county, city or town in this State issued pursuant to the authority of law; 4. Stocks or bonds of any State in the Union, that has, for ten years previous to such investment *being made, regularly paid* the interest on its legal bonded debt in lawful money of the United States; 5. Bonds or notes secured by mortgage on unincumbered real estate, situate in the county where the bank is located or an adjoining county, or in any other county in the State of Indiana, worth, exclusive of perishable improvements, at least twice the amount loaned thereon; 6. Promissory notes or bills of exchange, before their maturity, payable at some chartered bank within the State, and having not to exceed twelve months to run from the date of the loan or purchase, made or indorsed by two or more responsible freeholders of the State; but no such note or bill to exceed \$10,000; no more than \$10,000 to be loaned upon the same security; every such note or bill to be made or indorsed by at least one freeholder of the county in which the bank is located, by dealing in exchange, by purchasing and selling sight or time drafts payable out of the State; no draft to be purchased unless made or indorsed by one or more responsible freeholders of the county in which the bank is located, or an adjoining county, and unless for a sum not in excess of \$10,000, and maturing within sixty days or less time, when payable out of the State; not more than one draft to be held by bank at any one time, which is secured by the same, or any of the same indorsers, but not to exceed sixty per cent. of the whole amount of deposit shall be so loaned on interest.

COMMERCIAL LAW.

Acknowledgments. All conveyances of land must be in writing, and acknowledged and recorded within forty-five days from their execution. Within the State acknowledgments may be taken before a Judge or Clerk of a court of record, Justice of the Peace, Auditor, Recorder, Notary Public or Mayor of a city, and in other States and Territories before the like officers, or a Commissioner of Deeds for Indiana. In any foreign country, before a Minister, *charge d'affaires* or Consul of the United States. If such acknowledgment or proof is in some other than the English language, or not attached by such official seal, it must be accompanied by a certificate of an officer of the United States to the effect that it is duly executed according to the laws of the foreign country, that the officer has legal authority to certify to the proof or acknowledgment and the meaning of his certificate, if made in a foreign language. Husband must join in deeds to wife's lands, and wife in deeds to husband's lands. Wife takes inchoate interest in husband's lands. No *separate* acknowledgment of wife necessary in order to convey her inchoate interest in husband's lands.

Assignment for Benefit of Creditors. Any debtor in embarrassed or failing circumstances, may make a general assignment of all property in trust for benefit of all *bona fide* creditors. To be valid this must be by indenture duly signed and acknowledged, and filed with the Recorder of the county in which assignor resides, for record within ten days after the execution thereof. Indenture

to contain full description of real estate and be accompanied by schedule of personal property, and assignor to make oath that the indenture and schedule contains a full statement of all his property, etc. Trustee makes oath and files bond in Circuit Court, and must file copy of assignment, etc., in office of Clerk of that court within fifteen days after execution of indenture. Trustee named, failing to act, Court may appoint a substitute upon petition. Trustee named by the debtor may be removed by the Court on the petition of creditors representing in amount one-half the liabilities of the debtor. The Court may, upon petition of any creditor, or the trustee, order an examination of the assignor or any person to whom any part of his property has been transferred within six months previous to the assignment. The Trustee to make under oath complete inventory of all property coming to his hands, and file in Court within thirty days after entering upon his trust; also, cause same to be appraised by two reputable householders; set off to the assignor, if a resident householder, such property as he may select to the value of six hundred dollars; and proceed to collect the rights and credits, and to sell the property, after giving thirty days' notice of time and place, at public auction, or at private sale, for cash, or upon credit, not exceeding two years, subject to approval of the Court as to such sales. Dividends are declared *pro rata* upon all claims allowed by Trustee or the Court. Trustee's compensation to be fixed by the Court. No provision for discharge of debtor from his liabilities.

Attachment may issue against the property of non-residents or foreign corporations, and against all who have disposed of, or are about to dispose of, their property, to cheat, hinder or delay creditors, or against a creditor who conceals himself so that summons can not be served upon him. An affidavit is required, which may be made by the creditor or some one on his behalf, and a bond to answer damages if the proceedings are wrongful or oppressive. All creditors who file under the original attachment, before final judgment, share *pro rata* in the proceeds of the attached property. Defendant in a civil action may be arrested and held to bail in double the amount of debt or damages claimed, at any time before judgment, on affidavit showing that he is about to leave the State, taking with him property subject to execution, or money, with intent to defraud the plaintiff. The wages of a person, not exceeding one month, are exempt from garnishment or proceedings supplemental to execution, so long as such person remains in such employment. It is a misdemeanor to send claims out of the State to be collected by proceedings in attachment, garnishment, or the like, when creditor, debtor, and person owing for earnings intended to be reached are all within the jurisdiction of the courts of this State. Courts of this State are prohibited from taking jurisdiction of such proceedings to reach wages, when plaintiff and principal defendant are non-residents.

Chattel Mortgages. Chattel Mortgage on personal property left in the hands of the mortgagor with power to sell must stipulate that the money received by the sale be applied to the payment of the mortgage debt, and should be drawn in the form of an absolute bill of sale; must be acknowledged in the same manner as prescribed for the acknowledgment of deeds, and recorded within ten days from execution, and in the county where the mortgagor resides. An assignment of goods, by way of mortgage, where such goods are not delivered to the mortgagee, shall not be valid against any other person than the parties thereto, unless such mortgage shall be acknowledged, as prescribed in deeds of conveyance, and recorded within ten days after the execution thereof.

Courts. Terms and Jurisdiction. The Circuit Court is the only Court of original general civil jurisdiction in the State, and has full probate powers. From three to four terms are held annually in each county. Superior Courts have been established in Marion, Tippecanoe, Allen, Vigo, and Vanderberg counties, and hold from four to ten terms each year. The jurisdiction of Marion Superior Court is concurrent with that of the Circuit Court in all civil cases except probate matters and slander and libel; of Tippecanoe Superior Court is concurrent with the Circuit Court in all civil cases and in all actions by or against executors and administrators; of Vigo Superior Court is concurrent with the Circuit Court in all causes, including actions by or against guardians, executors and administrators, but no jurisdiction in probate matters and in the settlement of decedents' estates. Other Superior Courts have concurrent jurisdiction with the Circuit Court except in probate matters, the settlement of decedents' estates, and in actions for slander and libel. The Appellate Court has exclusive jurisdiction of all appeals from the Circuit, Superior, and Criminal Courts, in cases of misdemeanor; cases originating before a Justice of the Peace, when the amount in controversy exceeds fifty dollars exclusive of costs; all cases for the recovery of money only when the amount does not exceed one thousand dollars, and all cases for the recovery of specific personal property; actions between landlord and tenant for possession of the leased premises, and in all cases of appeals from orders allowing or disallowing claims against decedent's estates; and in all cases for the foreclosure and enforcement of liens of purely statutory origin when the amount in controversy does not exceed \$3,500; and such Court's decision in such cases shall be final. City Courts (which may be established in all cities having over 6,000 population) have concurrent jurisdiction with Circuit Courts up to \$1,500, except in probate matters, suits for libel, slander, or divorce, or where title to real estate is at issue. Justice's jurisdiction, \$200. Party may confess judgment for \$300. When a written obligation for the payment of money binds more than one party the Justice of the Peace may issue process against party to constable of any county in the State where party resides.

Executions may issue at any time within ten years after judgment rendered, and are returnable in 180 days. From a court of record may issue to any county in the State. Are a lien on personal property within the county from the time they are placed in hands of officer. The liens upon personal property attach in the order in which the officer receives them. When levy is upon real estate the dates of the judgments control the right to participate in the proceeds, and they must be applied according to their priority. Personal property taken in execution may be left with execution defendant by the giving to the officer of a delivery bond with sufficient surety. After judgment is rendered, the debtor may, by giving sufficient freehold sureties, have a stay of execution on any sum exceeding \$100, for six months. Where the sum is less than \$100, the stay is not so long, varying with amount of judgment. Lands sold under execution may be redeemed within one year by the

owner, mortgagee or person having a lien thereon, the owner retaining possession during the redemption year and being liable for reasonable rents and profits in case of failure to redeem.

Exemptions. There is no homestead law. Real or personal property up to \$600 is exempt where debtor is a resident householder. Resident householder is entitled to exemption as well when in transit with his family and property as when permanently settled. No right of exemption under chattel mortgage. Pension money in transit to pensioner is exempt, but when received by him and invested in other property is no more so than any other property.

Interest. The recent "Act concerning interest and usury," approved March 10, 1879, made considerable changes in the law, which are herein embodied. The legal rate of interest on loans or forbearance of money, goods or things in action, is six per cent., as heretofore, but interest may be taken yearly or for a shorter period in advance. No agreement to pay a higher rate is valid unless the same be in writing, and in such case it is not lawful to contract for more than eight per cent. per annum. When a greater rate is contracted for, the contract is void as to the usurious interest, and in an action on a contract affected by such usury, whether it be directly or indirectly charged, all excess over six per cent. is usurious and illegal, and the excess over the legal interest may be recouped by the debtor whenever it has been reserved or paid before the bringing of the suit. Interest on judgments rendered after March 10, 1879, runs from the date of the verdict or finding, at the rate specified in the original contract, not exceeding six per cent., and if no contract has been made, six per cent. is allowed. The act applies to all contracts made within the State, although they are to be performed without it, and where contracts made out of this State provide for a higher rate of interest, and are secured by mortgage upon lands within it, such lands are not liable for a higher rate than is allowed by the laws of Indiana.

Judgments of courts of record are a lien upon all real estate of defendant within the county for ten years. Judgment may be obtained at the first term of the Court, after process has been served on debtor ten days prior to the first day thereof. By law of 1877, plaintiff, by indorsement on complaint, can summon the defendant to appear and answer after service had ten days, and in default can take judgment, where no good cause of defense is shown, and it operates as a lien upon the real estate of the judgment debtor situated in the county. Transcript of judgment in Justice Court becomes a lien on real estate of judgment defendant from time of filing same in office of the Clerk of Circuit Court. Judgment taken by default, before Justice of the Peace, may be set aside upon the filing of an affidavit by the defendant, showing good defense, provided defendant pay all the costs of previous suit. Act of 1893 provides for filing in office of Clerk of any Circuit Court a certified copy of any judgment rendered by the District or Circuit Court of the United States for District of Indiana.

Limitations to Suits. Open accounts and contracts not in writing, for use, rents and profits of real estate, injuries to and detention of property, recovery of personal property and relief against frauds, six years; upon promissory notes, bills of exchange and other written contracts for payment of money, ten years; actions not limited by statute, fifteen years; other written contracts, judgments of courts of record and real actions, twenty years, Revivor: Part payment or new promise in writing.

Married Women retain their real and personal property owned by them at time of marriage or acquired during coverture. The husband is liable for the debts of his wife contracted before marriage to the extent of the personal property he may receive from or through her, or derive from sale or rent of her lands, and no further, and her lands are liable for such indebtedness. A married woman may devise by will her separate estate; may sell and transfer her separate personal property; carry on any business, labor, or service, and receive the earnings accruing therefrom; enter into any contract in regard to her separate personal estate, business, labor or service, and her separate estate, real and personal, be liable therefor, the same as a *femme sole*; and her husband is not liable for such debts, nor for indebtedness created by the wife for improvement of her separate real estate. She can make leases of real estate for terms of three years or less, and execute mortgages to secure purchase money, without husband joining. Is bound by covenants of title in conveyances of her separate real estate. Her deed conveying her real estate, her husband not joining, is absolutely void. May sue as a *femme sole* for any damage to her person or character. Is bound in like manner as principal on her official bond. She can not enter into any contract of suretyship whether as indorser, guarantor, or in any other manner, and such contract, as to her, is wholly void; and therefore a mortgage on her separate property for a debt for which she is mere surety, indorser or guarantor, is void: but if she makes a sworn statement that contract or mortgage is for her own benefit, in respect to her separate estate, and upon the strength of such statement another signs, she is estopped from alleging her mere relation of surety, indorser or guarantor. Is entitled to hold as exempt from execution her wearing apparel, articles of personal adornment purchased by herself to the amount of \$200 in value, all jewelry, ornaments, books, etc., which may have been given her as presents; and other property to the amount of \$300, except as against indebtedness for the purchase money therefor. No tenancy by the curtesy or dower. A widow takes one-third of her deceased husband's real estate in fee, and free from all demands of creditors, where the estate does not exceed \$10,000; one-fourth, if under \$20,000, and one-fifth, if above that amount. She also takes a child's interest in the personality where the number of children does not exceed two, and where there are more than two her interest shall not be less than one-third of the whole of personality after payment of debts, and in all cases takes \$500 without accounting, and may occupy the dwelling and forty acres of land for a year, rent free. But the one-third of her deceased husband's real estate which the widow takes *in fee*, can not, upon her marrying again, be effectively conveyed or mortgaged by her, if there be a child or children, or their descendants, alive by the previous marriage. Real estate which husband and wife hold by title made to them as husband and wife, can not be taken for the debt of either: is not subject to the lien of a judgment against either, except in case of the death of either or upon divorce granted, when the estate by entirety is destroyed and becomes subject to levy and sale; and a mortgage thereof by them both for a debt of the husband has no legal validity.

Mercantile Associations. Any number of persons may voluntarily associate themselves by written articles, to be signed by each person who may be a member at the time of organization, specifying the objects of the same, the corporate name they may adopt, the names and places of residence of each member or stockholder, with an impression and description of the corporate seal, and in what manner persons shall be appointed or elected to manage the business and prudential concerns of any such association, for the purpose of buying and selling merchandise and conducting mercantile operations. Amount invested in any one association shall not at any time exceed two hundred and fifty thousand dollars.

Notes and Bills of Exchange. Three days of grace are allowed on all bills of exchange payable within the State, whether sight or time bills. Damages for protest on bills upon any person at any place out of this State, but within the United States, five per cent.; on bills drawn upon any person at any place without the United States, ten per cent. Promissory notes payable to order or bearer at a bank in this State, and bills of exchange, are governed by the law merchant. Promissory notes not payable at a bank are subject to any set-off maker may have against payee, or any subsequent holder, accruing before notice of assignment. On these, maker must be exhausted before indorser can be sued. Protest is not necessary to hold indorsers of such notes, but to hold them maker must be sued at first term of Court after maturity, unless it can be shown that he was insolvent at the time of such maturity. For all purposes of presenting for payment or acceptance, for the maturity and protest, and giving notice for the dishonor of bills of exchange, bank checks, promissory notes, or other negotiable or commercial paper, the first day of the week, commonly called Sunday; the first day of January, commonly called New Year's day; the fourth day of July; the twenty-fifth day of December, commonly called Christmas day; and any day appointed or recommended by the President of the United States or the Governor of the State of Indiana as a day of public Fast or Thanksgiving. The 22d day of February, commonly called Washington's birthday, and the 30th day of May, commonly called Memorial day, the day of any general, National, or State election, are made holidays by statute; and the statute expressly provides that all notes, drafts, checks, or other negotiable or commercial paper, falling due or maturing on either of said holidays, shall be deemed as having matured on the day previous, and when any of said holidays come on Monday they shall be deemed as having matured on the Saturday previous, and when the legal holiday comes on Sunday the day following shall be the holiday.

Partition of Land. All costs and necessary expenses, including reasonable counsel fees for plaintiff's counsel, the amount to be determined by the court, awarded and enforced in favor of those entitled to partition against the partitioners, and in such proportions against each and according to equity as the court may determine, having regard to their relative interests in the land or proceeds apportioned.

Suits. No distinction between law and equity, as to pleading and practice, except that there is no jury trial in equity causes as a matter of right. Civil actions are commenced by filing complaint with Clerk of court, and every action must be prosecuted in the name of the real party in interest, except suits by executors, administrators, guardians of idiots or lunatics, trustees of express trusts, or person expressly authorized by statute.

Taxes. State, county, township, municipal, school and road taxes attach as a lien on real estate, on April 1 of each year, and penalties attach on third Monday of same month in the next year. One half of all taxes may be paid without penalty, if paid before third Monday of April each year; other half, if paid before first Monday of November each year. Sales of real estate for taxes are held on the first Monday of March, and all lands on which taxes are delinquent for two years are offered. Owner has two years in which to redeem, by paying the amount set forth in the certificate of purchase, with all subsequent taxes paid, and ten to twenty-five per cent. upon the whole sum, with legal interest from the date of purchase or payment. Lands are sold for one year's delinquency, but the following year's tax, not yet delinquent, is embraced in the amount sold for.

Wills. Nuncupative wills, where property of more than the value of \$100.00 is bequeathed, are not valid, except as to the personal property and wages of soldiers and sailors in actual service. A nuncupative will must be reduced to writing within fifteen days after it shall have been declared and proved by two competent witnesses who shall have heard the testator request some of those present to bear witness thereto.

No will in writing shall effect an estate, unless it be signed by the testator, or by some one for him in his presence, with his consent, and attested and subscribed by two or more witnesses, at his request and in his presence and that of each other.

INDIAN TERRITORY.

COMMERCIAL LAW.

(Revised by HUTCHINGS & ENGLISH, Attorneys at Law, Muskogee.)

Acknowledgments may be taken within the Territory, before the Judge or Clerk of the United States Court, United States Commissioners, and notaries public. Without the Territory, but within the United States, to be used in said Territory, they may be taken before the Judge of any Court of the United States, or of any State or Territorial Court having a seal, or before the Clerk of such Court, or before any notary public.

Administration. Citizens of Indian Nations are not subject to same under the laws governing the Indian Territory, but are only subject to the respective tribal laws and acts of their general councils. Claims must be authenticated and presented to the administrator or executor within one year from the date of letters, or they may be

precluded from any benefit. Claims not presented to the administrator or executor within two years are forever barred. Priority of claims against estates are as follows: 1. Funeral expenses. 2. Expenses of last sickness, wages of servants, medicines and medical attendance during last sickness. 3. Judgments which are liens on lands possessed by deceased. 4. All demands without regard to quality, which shall be exhibited within one year after the granting of letters. 5. All demands not exhibited within one year, but within two years.

Foreign administrators may sue with like effect as if appointed here.

Appeals may be taken from the United States Commissioners within thirty days from the rendition of the judgment to the United States Court in the Indian Territory, and are tried *de novo*. Appeals may be taken from the United States Court in the Indian Territory to the Supreme Court of the United States, and to the Circuit Court of Appeals, established by the Act of Congress, approved March 3, 1891, in the manner therein prescribed and set forth.

Assignments for the Benefit of Creditors can be made of all the property, or a part thereof. Any creditor or creditors may be preferred. Before any assignee of property for the benefit of creditors is entitled to take possession, sell, or in any way manage or control it, he must file in the office of the Clerk of the United States Court for the judicial division in which the property is located, a full and complete inventory and description of the property assigned, and execute a bond to the United States in double the estimated value of the property with good security, to be approved by the clerk.

But title to the property vests in the assignee upon the execution and delivery of the deed by the assignor, and can not be defeated by an execution coming to the hands of an officer after delivery of the deed, but before the filing of the schedule and bond. The assignee must file annual accounts current within the court.

He must sell the property at public auction, within 120 days after execution of the bond, giving thirty days' notice of the time and place of sale, and persons injured can sue on the assignee's bond.

Attachments. The plaintiff in an action may, at or after the commencement thereof, have an attachment against the property of the defendant in the following cases: Where the action is for the recovery of money, whether the sum is liquidated or unliquidated; where defendant, or some of defendants, is a foreign corporation or non-resident of the Territory, or has been absent therefrom four months; or has departed from the Territory with intent to defraud his creditors; or has left the judicial division of his residence to avoid the service of summons; or so conceals himself that a summons can not be served upon him; or is about to remove or has removed his property, or a material part thereof, out of the Territory, not leaving enough therein to satisfy the plaintiff's claim, or the claim of defendant's creditors; or has sold or otherwise disposed of his property, or suffered or permitted it to be sold, with the fraudulent intent to cheat, hinder, or delay his creditors, or is about to so sell with such intent; and in an action for the possession of personal property where it has been ordered to be delivered to plaintiff, and where the property, or a part thereof, has been disposed of, concealed, or removed, so that the order can not be executed. But an attachment shall not be granted on the ground that defendant, or any of them, is a foreign corporation or non-resident of the Territory, for any claim, other than a demand or debt arising upon contract. Where only a part of the parties, defendant in an action, are included in an affidavit for attachment setting forth any one of the above causes, the process is issued only against the estate or interest of such defendants as are so embraced, and the action proceeds against the other defendants as a personal action in the ordinary form. Plaintiff must file a bond, with one or more sureties. The lien of an attachment is complete when the officer executes it. The order of attachment binds the defendant's property in the judicial division, which might be seized under an execution against him, from the time of the delivery of the order to the marshal or other officer, and can not be defeated by a subsequent sale or general assignment. Action by attachment may be brought in any judicial division in which defendant's attachable property or credits may be found, and several writs may be issued upon the same complaint and affidavit to different judicial divisions. An attachment may be ordered by the judge or clerk upon a debt not due, where the complaint, verified by oath, shows that defendant has sold or otherwise disposed of his property, or permitted it to be done, with fraudulent intent to cheat or defraud his creditors, or hinder or delay them in the collection of his debts, or is about to make such fraudulent sale, conveyance, or disposition of his property with such intent, or is about to remove his property or a material part thereof out of the Territory, with the intent or the effect of cheating or defrauding his creditors, or hindering or delaying them in the collection of their debts; and the complaint must also show the nature and amount of the plaintiff's claim, and when the same will become due. In all cases of attachment the defendant is at liberty to give bond and procure thereby the discharge of the attached property.

Banks. The laws of the United States relating to National banks have the same force and effect as elsewhere in the United States.

Contracts. All contracts entered into by Indians with citizens of the United States in good faith and for a valuable consideration, and in accordance with the laws of the tribe or nation to which said Indians belong, are valid. The Indian nations have no laws restricting the making of mercantile contracts of any sort. Citizens of the United States may contract with one another the same as in the States.

Corporations. There is no law for the formation of corporations in the Indian Territory.

Costs. In the United States Court in the Indian Territory the estimated clerk's and marshal's costs are required to be deposited at the time of the filing of the suit, and before the service of process. Non-residents are required to give a bond for costs in addition to deposit.

Courts. The United States Court in the Indian Territory has jurisdiction in all civil causes where the defendants are found in or reside in the Indian Territory, and all the parties to the suit are not citizens by blood or adoption of the same Indian tribe or

nation, in all matters where the amount involved, damages claimed, or thing in controversy is over \$100. It also exercises the jurisdiction and powers of Probate courts, and has exclusive original jurisdiction in all probate matters.

The Indian Territory is divided into three judicial divisions. The first judicial division is composed of the Cherokee and Creek nations, and court sits at Muscogee in May and November of each year; the second judicial division is composed of the Choctaw nation, and court sits at South McAlester in January and September; the third division is composed of the Chicasaw and Seminole nations, and court sits at Ardmore in March and October.

United States Commissioners. There are three United States Commissioners appointed in each judicial division, with powers of justices of the peace, when the amount or thing in controversy, or damages claimed does not exceed \$100. They have also the same powers as Circuit Court Commissioners throughout the United States.

Depositions. The plaintiff may commence taking depositions immediately after service of summons, and defendant after filing answer. They may be taken on reasonable notice to the opposite party, or upon interrogatories and commission. When taken upon interrogatories, neither party nor his agent or attorney shall be present at the examination of the witness unless both parties are present or represented by an agent or attorney, or unless the opposite party or his agent or attorney has been seasonably notified of the time and place of the taking of said depositions, or the party attending has been notified by the opposite party to attend.

Divorce. The following are grounds for divorce: *First.* Impotency. *Second.* Desertion for one year without a reasonable cause. *Third.* Where either party had a husband or wife living at the time of the marriage. *Fourth.* Where either party shall be convicted of a felony or other infamous crime. *Fifth.* Habitual drunkenness for one year, or cruel or barbarous treatment as to endanger the life of the other, or offers of indignities to person of the other as shall render his or her condition intolerable. *Sixth.* Adultery. *Seventh.* Insanity.

Executions. Execution can not be issued until ten days after judgment, unless by order of the court. The same becomes a lien on all personal property of the person against whom issued from the time the same is put in the hands of the proper officer. It may be stayed for three months by giving a good bond, except when the judgment is against a collecting officer or attorney at law or agent, or against a principal in favor of surety, or of a debt due having the force of a judgment, or a judgment for specific property, or its value in favor of vendor or mortgagor.

Executions obtained in any other than Indian courts are not valid for the sale or conveyance of title to improvements made upon lands owned by an Indian Nation, except where such improvements have been made by persons, companies, or corporations operating coal or other mines, railroads, or other industries under lease or permission of law of an Indian Council, or charter or law of the United States. Upon a return of *nulla bona* on an execution upon any judgment against any adopted citizen of any Indian tribe, or against any person residing in any Indian country and not a citizen thereof, if the judgment debtor shall be the owner of any improvements upon real estate within the Indian Territory in excess of 160 acres occupied as a homestead, such improvements may be subjected to the payment of such judgment by a decree of the court in which such judgment was rendered.

Exemptions. The personal property of a resident, who is not married or the head of a family, in specific articles to be selected by such resident not exceeding \$200, in addition to wearing apparel, is exempt from attachment and execution. A resident who is married or is the head of a family has a like exemption to the value of \$500 in addition to wearing apparel of his family. Exemption applies only to debts by contract, excepting for purchase money of the property which is claimed as exempt by the vendee. The homestead of any resident who is married or the head of a family, is exempt from the lien of a judgment and from sale under any process, except for purchase money or for specific liens, laborer's or mechanic's liens, for improvements, or taxes, or against executors, administrators, guardians, receivers, attorneys for money collected and other trustee of an express trust for moneys due from them in their fiduciary character. A country homestead shall not exceed 160 acres of \$2,500 value, or eighty acres regardless of value. In a city one acre of like value, and in no event to be reduced to less than one-quarter of an acre. The widow and minor children of the owner are entitled to a like exemption of her husband's homestead during the minority of the children and the natural life of the widow.

Garnishments. After judgment the same may issue against any person believed to be indebted to the judgment debtor, and he may be required to appear before the Court, and disclose whether or not he has in his possession any goods, chattels, moneys, etc., belonging to the judgment debtor, and if he have any, judgment may be rendered against him therefor. In cases of attachment a writ of garnishment may issue before judgment.

Interest. Six per cent. per annum is the rate of interest by operation of law; the parties may agree in writing for as much as 10 per cent.; all interest beyond this is usurious and voids the contract, both as to principal and interest. Judgments and decrees bear the same rate of interest as the contract sued on. If no rate is expressed, then 6 per cent.

Judgments. There is no lien established by the same. To fix a lien execution must be issued. Actions on the same must be commenced within ten years from the date of the judgment.

License. Traders must pay a license fee to the Indian Nation of from \$25 to \$500 per year. Licenses are granted by the Commissioner of Indian Affairs for the term of one year. Traders must give a bond in the sum of \$10,000 to obey laws and regulations of the Interior Department. Commercial travelers are not taxed.

Limitations. Action for liability on contract, express or implied, not in writing, all action for trespass on land or for libel, actions for taking or injuring goods or chattels, must be brought in three years. All action of crim. con., assault and battery, and false imprisonment, all actions of slander, special or general, and all actions against officers for escape of persons imprisoned on civil process, must be brought in one year. All

other actions against officers for misfeasance or non-feasance in office, actions upon penal statutes, where the penalty or part of it goes to the United States, or person suing for it, must be brought in two years. Actions on promissory notes not under seal, in five years; from due under seal, ten years. On official bonds of Marshal or Constables within four years from date of cause. Actions against Executors and Administrators, eight years from the time the cause of action accrued. The act applies to non-residents as well as residents. Fraudulently absconding from another State or Territory, without creditors' knowledge, suspends operation of statute until creditor becomes apprised of the residence of the debtor. On mutual accounts current, statute begins from the date of last item. A new promise to take a case out of statute must be in writing, and no joint-contractor can bind another by such new promise; part payment takes the case out of the statute from its date for a like period as that which obtained in the original contract. If claimant die before the expiration of the period, the representative where action survives has one year after the bar within which to sue, but not thereafter.

Married Women. May hold separate property and carry on separate business. If she fails to schedule her property, the burden of proof is on her in a contest with her husband's creditors. Women become of age at eighteen. Wife's separate property not liable for any debt contracted by her unless the contract was made with special reference to its being liable, or in reference to it.

Mortgages and Chattel Mortgages. The law of mortgages for real estate has no application to the land tenures of the Indian Territory.

Chattel mortgages, when properly proved or acknowledged, shall be recorded or filed in the judicial division in which the mortgagor resides. (See 49 Ark. 83.) The acknowledgment shall be by the grantor appearing in person before the proper authority, and stating that he had executed the same for the consideration and purposes therein mentioned and set forth; when it is to be proven it shall be done by one or more of the subscribing witnesses personally appearing before the proper officer and stating on oath that he or they saw the grantor subscribe such deed or instrument of writing, or that the grantor acknowledged in his or their presence that he had subscribed and executed such deed or instrument for the purposes and consideration therein expressed, and that he or they had subscribed the same as witnesses at the request of the grantor. When the instrument is so proved or acknowledged and the mortgagee does not desire to record the same, he may file it in the Clerk's office when he indorses upon the back thereof the following words: "This instrument is to be filed, but not recorded," and such indorsement must be signed by the mortgagee, his agent, or attorney. When so filed it is a lien on the property for one year from the date of the filing, but it will be void as against creditors after the expiration of one year unless within thirty days next preceding the expiration of one year from such filing; and each year thereafter the mortgagee, his agent, or attorney shall make an affidavit exhibiting at the time last aforesaid the interest of the mortgagee claimed by virtue of such mortgage, and if said mortgage is to secure the payment of money, the amount due and unpaid, and such affidavit shall be attached to and filed with the instrument or copy on file to which it relates.

Notes and Bills of Exchange. The general rules of commercial law on these subjects prevail. Three days of grace are allowed, and this applies to bills of exchange payable at sight. There are no holidays peculiar to the Territory. Notes and bills due on Sunday, Fourth of July, or Christmas are to be presented and protested the day before, but notice need not be given until the day afterward. Protests are the common form, and are made by Notaries Public. Acceptances must be made in writing. If the drawee destroy or retain the bill, he is taken as having accepted it. The statutes fix in detail the damages to be awarded the holder of a bill in case of non-acceptance or non-payment. Protested bills bear interest at the rate of 10 per cent per annum.

Protest. (See *Notes and Bills of Exchange*.)

Suits. (See *Courts*.)

Taxes. (See *License*.)

Wills. Every person twenty-one years old, of sound mind, may devise all his estate, and may dispose of goods and chattels at the age of eighteen. Married women can make wills. Every will (except where nuncupative wills are allowed) must be in writing and subscribed by the testator or some one for him, at his request, at the end, and, if signed by another, he must subscribe as witness, and state the fact in writing. This signing must be made, or acknowledged to have been so made, in the presence of each of the attesting witnesses, and at the time of the signing or acknowledging he must declare the instrument so subscribed to be his will. There must be at least two witnesses, each signing his name as such at the end of the will, at the request of the testator. Nuncupative wills are good to the value of \$500. When a will of a non-resident of the Territory, relative to property within the same, has been proved without the same, an authenticated copy thereof and the certificate of probate thereof may be offered for probate in this Territory and admitted. The Court here shall admit the copy, and, if it appears from the copy that the will was proved in the foreign court of probate, to be so executed as to be valid for personalty. Wills are proved and admitted to record by the United States Court in the Indian Territory in the judicial division where the testator resided, and if he had no known residence in this Territory, then in the judicial division where he died, or where his estate or the greater part thereof lies, or where there may be any debts due him.

IOWA.

BANKING LAW.

(Revised by WM. B. COLLINS, Attorney at Law, Keokuk.)

The constitution provides that any act creating banking associations must be submitted to a vote of the people; and, subject to this provision, the General Assembly may provide for State banks and

branches. Stockholders are responsible to the amount of their stock over the stock held. In case of insolvency, bill holders are to be preferred. Suspension of specie payment is not permitted. The General Assembly, by a two-thirds vote, may amend or repeal any law, and no special or exclusive privileges shall be given. A full and accurate statement, verified by the oath of the president or vice-president, or cashier, or two directors, must be made quarterly to the Auditor of the State. The Auditor may cause to be made four examinations per year of each bank. The quarterly statement must be published for one day, in a daily newspaper published in the county where the bank is located; and, if there is no daily paper, it must be published in a weekly paper for one week. All banks other than Savings banks shall have the word "State" made a part of their name.

Savings banks are not to be incorporated under the general incorporation law, but under the provisions of Chapter 60, Section 15, of Acts of General Assembly. They must have a capital of not less than \$10,000, which may be increased in the same manner as the original organization was formed. Upon a sworn statement of the officers of the bank, the State Auditor shall grant a certificate authorizing the bank to commence business. Articles of incorporation are to be filed with the Recorder of Deeds in the county where the bank's principal place of business, and also a certified copy thereof shall be filed with the Secretary of State. An announcement of organization must be published in a county newspaper for four consecutive weeks. The period of incorporation shall not exceed fifty years. Such banks shall be managed by a board of directors or trustees, numbering not less than five nor more than nine, who shall be shareholders and citizens of the State, who shall make oath to faithfully perform their duties, which oath shall be filed with the State Auditor. Elections are to be held annually by person or proxy of shareholders. (See chapter, Senate file, 83, about vote by directors.)

Savings banks may receive deposits ten times larger than the amount of paid-up capital stock; a bank of \$10,000 capital may receive deposits of \$100,000; of \$25,000 capital, may receive \$250,000, and other sums in like proportion. Investment of funds may be made in stocks or bonds, or interest-bearing notes or certificates, of the United States, or of this State, and of any city, town, county, village, or school district of this State; but the assets of the bank shall not exceed 25 per cent. of town, village, or school district bonds or warrants. Notes or bonds must be secured by mortgage or deed of trust upon unincumbered real estate, in this State, worth at least twice the amount loaned. Such banks are empowered to make loans and discount, purchase and sell commercial paper, notes, bills of exchange, drafts, and other personal or public securities; but they shall not purchase, hold, or make loans upon the shares of their capital stock. In loans upon real estate, all expenses shall be paid by the borrowers, and insurance policies shall be assigned to the bank for its benefit. They may hold real estate to do business in, and also that purchased at foreclosure or other judicial sales for debts due it; but some of the real estate last purchased shall be sold within ten years after this title is vested in the bank.

The capital stock shall be \$100 per share, par value, shall be deemed personal property, and shall be transferable, but must be paid for before acquired. All shareholders shall be severally liable, over and above the stock held, for an amount equal to their respective shares, and no transfer of stock shall affect such liability for the period of six months thereafter. Such banks shall not issue circulation, or contract debts except for deposits and for the necessary expenses of transacting business. The capital stock and assets of these banks shall be security to depositors. The limit of liability of any person, company, corporation, or firm, to the bank, shall not exceed 25 per cent. of its capital stock actually paid in. The unauthorized use of the term Savings banks is prohibited under penalty. All banks shall make quarterly reports of condition, and transmit the same to the Auditor of State. The Auditor is also to examine each banking association four times a year. When a bank is violating the law or doing an unsafe business, the Auditor is to direct a discontinuance of the same; and upon a refusal to report to the Attorney General, the Auditor may appoint examiners at the expense of the bank. False statements and intentional fraud are prohibited under severe penalty. The capital stock is subject to the same rates of taxation as other taxable property. Mortgages and other securities are exempt from taxation. Banks may reorganize under the law, but are prohibited from advertising more capital than has been paid in, under a penalty of fine.

COMMERCIAL LAW.

Acknowledgments of deeds to land made within the State, before some Court having a seal, or Judge or Clerk thereof, or Deputies, or some Justice of the Peace, or Notary Public, or County Auditor or his deputy, in the United States or Territories, must be made before some court of record, or officer holding the seal thereof, or by a Commissioner of Deeds, appointed by the Governor of the State, Notary Public, or Justice of the Peace; in the case of the latter official, his authority to take the acknowledgment should be certified to by a Clerk of a court of record, under seal of the court, as also his official character, and the genuineness of his signature. In foreign countries deeds may be acknowledged before any officer authorized by the laws of such country to certify to acknowledgments, or any Ambassador, Minister, Consular Agent, or other officer of the United States properly authorized to receive acknowledgments of deeds, but the certificate of acknowledgment by a foreign officer must be authenticated by one of the above named officers of the United States, by his official written statement that full faith and credit is due to the certificate of such foreign officer. Witnesses are not required.

Assignments and Insolvency. No insolvent law. Assignments not valid unless for benefit of all creditors, when assent of creditors is presumed. Debtor must furnish sworn inventory and list of creditors; and the assignment, which vests in the assignee title to all property of the debtor, must be recorded. Assignee must give bonds, prepare an inventory and valuation, and notify creditors by mail to file claims within three months. All claims not filed within three months after notice published can not be paid until all claims filed within said three months are paid. Claims objected to may be passed upon by a jury, and the assignee is in all respects

subject to order of court, and renders a final account thereto. All personal property must be disposed of within six months and all real estate must be disposed of and final settlement made within one year from date of assignment, unless otherwise ordered by the court. An assignment does not discharge the debtor from his debts and liabilities, but only entitles creditors to share equally in his estate. Earnings by creditor for personal services rendered at any time within ninety days preceding assignment, is a preferred claim, and to be paid in full. All claims filed must be sworn to, and claims not filed within three months from the date of the first publication will not be paid until claims filed within that time have been paid in full. The assignment is docketed as a case in court. Special assignments under the common law valid.

Attachment process will issue against all property not exempt from execution on filing of a sworn petition, alleging, 1st, that the defendant is a foreign corporation, or acting as such; or 2d, that he is a non-resident of the State; or 3d, that he is about to remove his property out of the State, without leaving sufficient remaining for the payment of his debts; or 4th, that he has disposed of, or is about to dispose of, his property (in whole or in part) with intent to defraud his creditors; 5th, that the defendant is about to dispose of his property with intent to defraud his creditors; 6th, that he has absconded so that ordinary process can not be served upon him; 7th, that he is about to remove permanently out of the county and has property therein not exempt from execution, and that he refuses to pay or secure the plaintiff; 8th, that he is about to remove permanently out of the State, and refuses to pay or secure the debt due the plaintiff; 9th, that he is about to remove his property, or a part thereof, out of the county, with intent to defraud his creditors; 10th, that he is about to convert his property, or a part thereof, into money, for the purpose of placing it beyond the reach of his creditors; 11th, that he has property or rights in action which he conceals; 12th, that the debt is due for property obtained under false pretenses. Attachment may be brought before the debt is due when the 4th, 5th, 7th or 12th of the above causes can be alleged under oath. The first attachment levied becomes the first lien, and there is no pro-rating. The penalty on an attachment bond is three times the amount of debt. No person may be imprisoned for debt in any civil action on mesne or final process, except in case of fraud. No judgment shall be rendered in any garnishment proceeding condemning the property or debt in the hands of the garnishee until the principal defendant shall have ten days' personal notice of such proceedings in a court of record and five days' personal notice if before a Justice of the Peace, if defendant is a resident of the county. If a non-resident of the county or State, the same notice shall be given as is required for the service of original notices. Pension money exempt from, whether deposited, loaned or invested.

Courts. Terms and Jurisdiction. After January, 1887, the Circuit Court abolished, and the District Court has and assume all the jurisdiction of all suits civil and equitable, and have criminal and probate jurisdiction. Superior Courts may be established by the vote of the people in any city of 7,000 inhabitants, and, when so established shall be a Police Court, with jurisdiction to try all violation of city ordinances, and the same criminal jurisdiction as Justice of the Peace Courts. Has no probate jurisdiction. Has the same jurisdiction as the District Court to try all suits in law and equity, save and except granting divorces, alimony, and separate maintenance, and the transcript of Superior and Justices' Courts will have to be filed in District Court to create a lien on real estate, and are then enforced as judgments of the District Court. Terms of Supreme Court, January, May, and October. Justice's jurisdiction, \$100, or, by consent of parties, \$300. No appeal from a Justice unless amount exceeds \$25. No appeal to Supreme Court unless the amount in controversy exceeds \$100, unless upon certificate of Trial Court.

Executions may issue immediately upon the rendition of the judgment, and are returnable in seventy days from the date of issue. On the judgment debtor entering good and sufficient security on the proper court records for the amount of such judgment, interest and costs—accrued and to accrue—he can have a stay of execution as follows: under \$100 three months, above that sum, six months by giving bond, which shall be filed and recorded and have the effect of a judgment. Stay must be taken within ten days from the date of entry of judgment, and the party taking such stay, if he has been personally served with process, shall not afterward be allowed to appeal. If the judgment is not fully paid at the expiration of the stay, judgment is entered against the surety, and execution may be issued forthwith. After stay, judgment draws ten per cent. interest by operation of law. There can be no stay for wages due mechanic or laboring man, nor by a surety on stay bond. Defendant may redeem real property sold under execution at any time within twelve months, meantime remaining in possession of the property, but where he has taken an appeal or stay of execution he can not redeem. During the first six months he has exclusive right of redemption, but after that time, and before the expiration of nine months, any creditor having a lien can redeem.

Exemptions. Homestead of 40 acres in country and half an acre in city or town, with buildings, without regard to value. Homesteads are exempt to any widow of a soldier or sailor, who died of disease or wounds contracted while in the service of the United States, or after discharge. Pension money, or homestead procured by pension money, exempt from attachment or execution. Pension money, whether in possession, or loaned or invested. Personal property exempt includes tools, instruments, library, necessary team, etc., of mechanic, farmer, teacher, or professional man; wearing apparel, household and kitchen furniture, \$200; certain farm animals and necessary food for six months. Foregoing relates only to residents, being heads of families; unmarried persons and non-residents being only entitled to retain their own clothing and trunks, save and except pensioners. Where debtor is a printer, the printing press and types, furniture and material up to \$1,200, are exempt. Earnings of debtor within 90 days of levy are exempt. One sewing machine exempt to seamstress. No exemptions waived by failure to except to levy of execution or to designate or select exempt property.

Interest. Legal rate, eight per cent.; parties may contract, in writing, for eight per cent. Judgments draw six per cent., or such rate as is fixed by the contract on which the judgment or decree is

rendered, not exceeding eight per cent. per annum. Open accounts draw six per cent. after six months from date of last item. Contract for more than eight per cent. forfeits ten per cent. on amount of contract, and all interest and costs.

Judgments in the District and Superior Courts may be obtained at first term after suit commenced, if undefended, and judgments of the District Court are liens on real estate owned by the debtor at the time of such rendition. If the lands lie in the county where judgment was rendered, the lien attaches from its date; if in any other county, from the time of filing therein an attested copy of the judgment. Lien also covers all lands which defendant may acquire within ten years from date of judgment. Judgments of Superior Courts and Justices of Peace Courts become liens on real estate by filing transcript in District Court within County where obtained, and become liens in other countries in the same manner as if rendered in the District Court.

Limitations to Suits. Actions for injuries to person or reputation, or to recover a statutory penalty, must be brought within two years; to enforce a mechanics' lien, two years; on unwritten contracts, five years; on written contracts, ten years; on judgments of courts of record, twenty years; to recover real estate, ten years. Revivor: Admission of debt or new promise to pay, which must be in writing, and signed by the party to be charged.

Married Women may own in their own right real and personal property acquired by descent, gift or purchase, and may manage, sell, convey and devise the same by will in the same manner as the husband can property belonging to him. Neither husband nor wife is liable for the debts or liabilities of the other incurred before marriage, and, except as herein otherwise declared, they are not liable for the separate debts of the other, nor are the wages, earnings or property of either, nor the rent or income of such property, liable for the separate debts of the other. Contracts may be made by a wife and liabilities incurred, and the same enforced by or against her, to the same extent and in the same manner as if she was unmarried. But both are liable for the expenses of the family, and the education of the children, whether contracted for by one or the other. They may be sued jointly or separately therefor. Dower and the estate of curtesy are abolished, but the surviving wife or husband takes one-third in value of all the legal and equitable estate possessed by the other during marriage.

Mortgages must be subscribed by the parties and acknowledged and recorded same as deeds: are foreclosed by civil action. Mortgagor has one year in which to redeem after execution sale. Chattel mortgages to be valid against existing creditors or subsequent purchasers without notice must be recorded immediately in the county where the holder of the property resides. A chattel mortgage may include all kinds of personal property, and the creditor may enter into possession of the mortgaged property at any time after the execution of the instrument.

Notes and Bills of Exchange. Grace is allowed upon all negotiable bills or notes payable within the State according to the law merchant, except those drawn payable on demand, and notice of non-acceptance, or non-payment, or both, is required according to the rules of commercial law. Damages allowed on protested paper: three to five per cent. To hold indorser note must be duly presented, payment refused, and indorser notified. Open accounts are assignable. Paper falling due on Sunday, 1st day of January, 30th of May, 4th of July, the 25th day of December, and any day appointed by the Governor or by the President as a day of fasting or thanksgiving, shall be considered and treated as falling due on the preceding day. Defenses to non-negotiable paper and accounts accrued after notice in writing of assignment to maker invalid as against assignee. Providing that if negotiable paper be obtained by fraud, the holder thereof shall recover no greater sum than he paid with interest and cost.

Suits. But one form of action in this State, known as a civil action and regulated by a Code of Procedure. Actions are commenced by serving defendant with notice, stating generally the nature of the claim, and filing a petition in court, ten days before the term. Actions generally are prosecuted in the name of the real party in interest, and in the county where defendant resides, or property in question is situated, or cause of action arose. Process must be served in Justices' Courts on debtor at least five and not more than fifteen days, and in the District Court and Superior Courts at least ten days, before the first day of term. If defendant is served outside of his county, but inside of judicial district, process must be served fifteen days; elsewhere there must be twenty days' service for every 1,000 miles or fraction. Service short for first term is good for next term.

State and County Taxes become due and payable on first Monday of January, and one-half thereof may be paid before the first day of March succeeding the levy, and the remaining one-half before the first day of September following: *provided*, where the half has not been paid before the first day of April succeeding the levy, the whole tax shall become delinquent from the first day of March following the levy. If the second installment be not paid before the first day of October succeeding the levy, it shall be delinquent. All delinquent taxes draw interest at the rate of one per cent. per month until paid. Personal property is liable to distress and sale for all taxes, and the tax list is the warrant therefor. When a merchant or other person, assessed with personal property only, shall sell and transfer the same, in bulk, after the taxes thereon are due and payable, such taxes shall become a lien upon such personal property in the hands of the vendee, and shall be collectible against such vendee the same as if assessed in his name. Taxes on personal and real property are made a perpetual lien on real property. Lands are sold on the first Monday in December after taxes become delinquent. Three years are allowed in which to redeem by payment of amount for which lands were sold, with ten per cent. penalty, and ten per cent. per annum interest upon the whole amount: *provided*, after two years and nine months from the tax sale, notice must be given to the person to whom the said land is assessed, and the person in actual possession, that deed will be taken ninety days hence. Where land is assessed unknown and is unoccupied, no notice is necessary: *provided*, that a non-resident may file with the Treasurer of the county a written appointment of some resident of the county where the land is situated, upon whom service shall be made. Taxes become a lien as between vendor and vendee December 31st of each year. City taxes are assessed and collected as provided by the ordinances of each city.

KANSAS.

BANKING LAW.

(Revised by J. G. SLONECKER, Attorney at Law, Topeka.)

There is no constitutional provision relating to banks except banks of issue. Other banks are organized under the general corporation act, but the charter must state the names and residence of stockholders and the number of shares held by each. Capital not less than \$5,000, of which half must be paid in before commencing business and not less than ten per cent. each month thereafter until all is paid. Capital may be increased, the increase to be paid in full. Twenty per cent. of deposits must be kept on hand or on deposit with solvent banks, at least half of which must be in cash on hand. Not more than fifteen per cent. of capital and surplus shall be loaned to one debtor. Officers criminally liable for receiving deposits when bank is insolvent. Dividends can only be paid out of net profits after deducting bad debts. Private banks are subject to the provisions of the law. The bank commissioner or deputy must make examination of each bank at least once a year. Four reports per annum are required and the commissioner may call for others. The reports are practically the same as those required of National banks. Refusal to comply with the law forfeits charter.

COMMERCIAL LAW.

Acknowledgments. (*See Deeds.*)

Actions. Civil actions are begun in the courts by filing a petition and praecipe in the office of the Clerk, and causing summons to issue thereon. Security for costs must be given by the plaintiff in each case before summons can be issued, unless the plaintiff files an affidavit that his cause is just, and on account of his poverty he is unable to give security. Non-resident plaintiffs may deposit a sum of money satisfactory to the Clerk, and residents can deposit \$15 in lieu of bond for costs. In actions on contract for the recovery of money the amount for which judgment is claimed must be indorsed upon the summons, and judgment can not be taken in case of default for more than the sum so indorsed. Actions concerning real estate must be brought in the county in which the land or a part of it is situated; other actions must be brought in the county in which the defendants or some one of them reside or may be summoned, except actions against foreign corporations and non-residents, and in the latter case the action may be brought in any county where the defendant has property or debts owing to him. Actions against domestic corporations may be brought in the county in which the corporation is situated or has its principal place of business, or in which any of the principal officers reside or may be summoned. If the corporation is an insurance company, the action may be brought in the county where the cause of action or some part thereof arose, and as to foreign insurance companies the summons may be served upon the State superintendent of insurance. Actions against railroads, stage lines, etc., may be brought in any county through which the road or line passes, and service may be made upon any agent or upon any person authorized by said company, by notice filed with the Clerk of the Court, to accept service in such county. Actions for divorce may be brought in the county of which the plaintiff is an actual resident.

Aliens, if non-residents, can not acquire title to real estate; but heirs of aliens who have heretofore acquired land may take such land by devise or descent and hold the same for three years if of age, and for five years if minors, when it reverts to the State if not previously sold in good faith. Minor aliens residing in the United States may acquire title by purchase and retain it for six years after they might, under the naturalization laws, have declared their intentions to become citizens, when it shall revert to the State if such aliens have not become citizens. Resident aliens who have declared under the naturalization laws their intentions to become citizens may, during six years thereafter, exercise all the property rights of citizens, when the land owned by them shall escheat to the State, if such aliens have not become citizens. No corporations in which more than twenty per cent. of stock is owned by aliens shall acquire or hold real estate. Forfeited land is sold by judicial process, and proceeds after payment of costs returned to alien owners. An alien owning land prior to the taking effect of this act can dispose of the same during his life.

Appeals. Appeals may be taken from judgments of Justices of the Peace to the District Court, by filing a bond of not less than \$50 and not less than double the amount of the judgment appealed from. Civil cases may also be taken from the District Court to the Supreme Court by petition in error which has attached to it a complete transcript of the case, or such portion thereof as may be necessary to raise the questions desired to be decided by the Supreme Court.

Arrest. There can be no imprisonment for debt except in cases of fraud.

Assignments and Insolvency. Assignments must be for the benefit of all creditors and only discharge the debtor to the amount of payments made. The assignment must be executed, acknowledged, and recorded like conveyances of real property; and within thirty days after the execution of the deed of assignment an inventory of the property and effects assigned must be filed in the office of the Clerk of the District Court of the county in which the assignor resides, and must be sworn to and as schedule of liabilities and with the name of the creditors, the amount and character of their debts, and their address so far as the same shall be known to the assignor, verified by his affidavit, shall be filed on the date of the execution of the assignment in the office of such clerk. The Clerk, within two days thereafter, shall mail to each creditor, whose

demand exceeds \$10, a notice of such assignment, name of the assignor, date of assignment, name of assignee, and names of all creditors and amounts as stated in such schedule; and shall name a day, not less than twenty nor more than thirty days from the date of assignment, on which creditors shall convene at his office and choose an assignee. Until such choice is made the assignee named in the assignment remains in possession and control. If a majority in interest of the creditors whose debts exceed \$10 are present in person or by attorney at the meeting, an assignee may be chosen by those representing the greater part in value and number. The assignee thus chosen must accept within five days after his notification and file a bond. If the creditors fail to elect an assignee the Judge of the District Court appoints. The assignee shall appoint a day within six months after the date of the assignment, when he will proceed publicly at the county seat to adjust and allow demands against the estate; and he shall give notice of such time and place by advertisement, published in some newspaper printed in the county, for three months, the last insertion to be at least four weeks before the appointed day, and shall also give notice by letter addressed to the creditors whose address is known. The assignee shall require such evidence of the justice of such demands as is required to show justice of demands of a similar character in the District Court, and appeals may be taken from the decision of the assignee. No preferences are allowed and no provision is made by law for any exemption to the family of the debtor, and the assignment is merely a conveyance and transfers what is stated in the deed of assignment, and no more. The Court or Judge orders sale of assigned property in such a manner and at such time as shall appear most advantageous. Dividends are to be declared as soon as practicable, and the District Court has general supervision of the assignee and of matters pertaining to the estate.

Attachment. At or after the commencement of an action an attachment may be had by either a resident or non-resident plaintiff. The affidavit of the plaintiff, his agent, or attorney must be filed, stating the nature of the claim, that it is just, the amount affiant believes ought to be recovered, and the existence of some one or more of the following grounds: *First.* That defendant is a foreign corporation or a non-resident of the State (but in this case for no other claim than a demand arising upon contract, judgment, or decree, unless the cause of action arose wholly within the limits of the State). *Second.* That the defendant absconded with the intention to defraud his creditors. *Third.* That the defendant has left the county of his residence to avoid a service of summons. *Fourth.* That he so concealed himself that summons can not be served upon him. *Fifth.* That he is about to remove his property or a part thereof out of the jurisdiction of the court with the intent to defraud his creditors. *Sixth.* That he is about to convert his property or a part thereof into money for the purpose of placing it beyond the reach of his creditors. *Seventh.* He has property or rights in action which he conceals. *Eighth.* Has assigned, removed, or disposed of, or is about to dispose of his property, or a part thereof with the intent to defraud, hinder, or delay his creditors. *Ninth.* Or fraudulently contracted or incurred the debt on which the suit is brought. Or, *Tenth.* That the suit is brought for damages from the commission of some felony or misdemeanor. Or, *Eleventh.* That the debtor has failed to pay for any article or thing delivered for which by contract he was bound to pay upon delivery. On 5th, 6th, and 8th an action may be brought and attachment had before the debt is due, but an order of the judge is necessary before the attachment issues. Attachment orders may issue to different counties and bond must be given to be approved by the clerk, except where the defendants are non-residents or foreign corporations. Where any person or corporation is indebted to or has property of the defendant in his possession, orders of garnishment may issue on similar terms without bond, and garnishments may be sued out before justice of the peace upon oath of claimant that he is otherwise in danger of losing his demand.

Chattel Mortgages. Every chattel mortgage or conveyance intended to operate as such, which shall not be accompanied by an immediate delivery and followed by an actual and continued change of possession of the thing mortgaged, shall be absolutely void as against the creditors of the mortgagor and subsequent purchasers and mortgagees in good faith, unless the mortgage or a true copy thereof shall be forthwith filed in the office of the register of deeds in the county where the property is at the time; or if the mortgagor be a resident of the State, then of the county of which he shall at the time be a resident. And every such mortgage shall be void as against the creditors of the mortgagors or subsequent purchasers or mortgagees in good faith after the expiration of one year after same was filed, unless within thirty days next preceding the expiration of said year, and each year thereafter, the mortgagee, his agent or attorney, shall make an affidavit exhibiting the interest of the mortgagee in the property at that time, and the amount yet due thereon. But such affidavit may be filed any time if no purchase or lien in good faith has intervened, or the mortgagee after the year and without affidavit may secure himself by taking possession. Such affidavit shall be attached to and filed with the original mortgage. There is no stipulated time in which mortgage is to be foreclosed. It may be done at any time after breach of condition and before debt is barred by statute of limitations.

A mortgagee of chattels, after condition broken, may sell the same on ten days' notice by posted hand-bills without further proceedings. Or, if the mortgage so provides, he may sell at private sale; or if the mortgagee has taken possession (as authorized to do at any time), the mortgagor or a subsequent mortgagee may, before or after condition broken, demand sale on notice as above. Any surplus goes to mortgagor or subsequent mortgagee.

Contracts. All contracts which, by the common law, are joint only, shall be construed to be joint and several. Any person jointly or severally liable with others for the payment of any debt may be released from such liability by the creditor, and such release shall not discharge the other debtors beyond the proper proportion of the debt for which the person released was liable. The use of private seals in written contracts (except seals of corporations) is abolished.

Corporations. Corporations are formed under a general statute, but there are separate provisions regulating the different kinds of corporations and to some extent the requirements of their organization. In general, they are formed by the execution of a charter by five or more persons, at least three of whom must be citizens of

this State. The charter must state: *First.* The name of the corporation. *Second.* The purpose for which it is formed. *Third.* The places where its business is to be transacted. *Fourth.* The term for which it is to exist. *Fifth.* The number of its directors or trustees and the names and residences of those who are appointed for the first year; and, *Sixth.* The amount of its capital stock and the number of shares into which it is divided. The persons signing the charter must acknowledge the execution of the same in the same manner as the execution of a deed is acknowledged, and the same is then filed with the Secretary of State, and the organization of the corporation dates from the date of filing. If no period for the existence of the corporation is named in the charter it exists for a period of twenty years. The name adopted must indicate the nature of the business. The corporate name must begin with the word "the" and end with the word "corporation," "company," "association," or "society," but this does not apply to banks, benevolent, or religious societies. There must be at least five directors, three of whom must be residents of the State. There is no requirement of the number of shares a person must hold to qualify him as a director. The treasurer is required to have an office in the State. The annual meeting of the stockholders for the election of directors must be held within the State, but the directors may hold meetings at such places as they desire. The capital stock can be increased to an amount not exceeding three times the original amount fixed in the charter. Dividends can not be declared from any other resource than that which results from profits. The corporation can borrow money not to exceed the amount of its capital stock. Stockholders are liable for debts of the corporation to the extent of any amount unpaid on their original subscription and an additional amount equal to the par value of their stock. This applies to all corporations, except railroads and religious and benevolent societies. Corporations must file statements annually in December with the Secretary of State under a penalty of \$200 for failure so to do. Suits may be brought by and against corporations the same as individuals. There are laws regulating banks, insurance companies, railroads, and other such corporations, and regulating the manner in which such corporations organized under the laws of other States may do business within this State.

Courts. Terms and Jurisdiction. District Courts, holding two to three terms a year in every county, have general original jurisdiction in law and equity. Regular terms of the Probate Court are held in each county on the first Monday in January, April, July and October, and special or adjourned terms may be held as business may require. Justice's jurisdiction in civil actions for the recovery of money, \$300; to recover specific personal property, \$100.

Days of Grace. (See Notes, etc.)

Deeds. No particular forms of conveyances are prescribed, but the following are provided for. A conveyance in substance; AB conveys and warrants to CD (here describe premises) for the sum of (here insert the consideration), being dated, signed, and acknowledged by the grantor, is declared by statute to be a conveyance in fee simple, with covenants from the grantor for himself, his heirs and personal representatives that he is lawfully seized of the premises, has full right to convey the same, and guarantees the quiet possession thereof, that the same are free from all incumbrances, and he will warrant and defend the same against all lawful claims. A conveyance in substance: A. B. quit-claims to C. D. (here describe premises) for the sum of (here insert the consideration), being duly signed and acknowledged by the grantor, is a good and sufficient conveyance in quit-claim. The same rule holds in regard to mortgages. As between the parties conveyances are valid without being recorded. The wife should join with her husband in the conveyance, and any conveyance or mortgage of the homestead without her uniting in the same is absolutely void. If the wife has never resided in the State her signature is not necessary. Powers of attorney to convey land must be acknowledged and recorded the same as deeds. Grantors need not attach any seal or scroll to their signatures, and no witnesses are necessary unless grantors are unable to write. Corporations convey by deed, sealed with the corporate seal and signed by president, vice-president, presiding member, or trustee. The acknowledgment must be before a judge or clerk of the District Court having a seal, a Justice of the Peace, Notary Public, County Clerk, Register of Deeds, mayor or clerk of an incorporated city. Every Notary Public shall add to his official signature the date of the expiration of his commission as Notary Public. In cases where the acknowledgement is made out of the State it must be made before a court of record, a clerk, or other officer having the seal thereof, a Commissioner of Deeds for Kansas, Justice of the Peace or Notary Public, or before any consul of the United States resident in any foreign country or port. When the acknowledgment is made before a Justice of the Peace, a clerk of a court of record must certify to his official position. All instruments of writing for conveyances or incumbrances of real estate in this State executed and acknowledged or approved in any other State, Territory, or country in conformity with the laws of such State, Territory or country, or in conformity with the laws of this State, are as valid as if executed within this State.

If the deed is executed by a corporation, the president or other person executing the same should acknowledge it, and the officer should certify that he was personally known to be the president of such corporation, and that he acknowledged the execution of the instrument for and on behalf of the corporation for the purposes therein expressed.

Deeds and mortgages must be recorded in the office of the register of deeds of the county in which the land is situated, or they will be void as to subsequent grantees in good faith without notice.

Depositions. Depositions are taken upon notice to the opposite party. The notice must be served so as to allow the adverse party sufficient time, by the usual route of travel, to attend, and one day for preparation, exclusive of Sunday and the day of service. Courts are also authorized to appoint commissioners to take depositions.

The deposition may be taken by stating the facts in narrative form, or in reply to questions first written down.

The depositions may be taken before any judge, justice, or chancellor of any court of record, a justice of the peace, notary public, mayor or chief magistrate of any city or town corporate; or a commissioner appointed by the Governor of the State of Kansas to take depositions—such officer not to be attorney or relative of either party, nor otherwise interested in the event of the suit.

If there are adjournments, they shall be noted by the magistrate or other officer, from day to day, at the close of the day, and legal reasons therefor given.

Objections should be entered to witnesses supposed to be interested, and to questions supposed to be illegal. This entry is made on behalf of the party raising the objection, simply by a short note made by the magistrate or officer taking the depositions.

Each witness must sign his own deposition.

The notice must be attached to the depositions and inclosed with them.

The depositions should be commenced on the day named, and some portion of a deposition taken on each successive day, Sundays excepted, adjournments being from Saturday to Monday; Sundays and national holidays not being regarded. A legal reason for every adjournment should appear in the officer's certificate.

When depositions are taken under an agreement, the above instructions will be followed, except where they are modified by the agreement. In such case the agreement will be followed. It should be attached to the depositions, if sent, and referred to in the caption, as the notice is, when taken under a notice.

If taken by interrogatories and cross-interrogatories, under agreement or otherwise, each interrogatory and cross-interrogatory must be put to each witness and answered so far as he can answer it, and the answer written down. The deposition must show that each interrogatory and cross-interrogatory was thus put and answered.

The fees for taking depositions should be taxed, and a memorandum made by whom they were paid.

If the depositions are taken before the mayor, notary public, or commissioner appointed as aforesaid, they must be certified under his official seal. If before any of the other officers above named, a certificate must be annexed, under the seal of the court of the county, or the great seal of the State, that the officer by whom the depositions were taken was, at the time of taking the same, such officer as he represents himself to be in his certificate. This should be attached to the magistrates certificate.

This proof of official character is omitted when waived by agreement of parties at the foot of notice. This agreement does not waive the taking depositions at the time and place named in the notice.

The whole should be sealed up by the magistrate, the title of the suit indorsed on the outside, the name of the officer taking the same, and "depositions on behalf" (the party taking the same) and addressed to the "clerk of the at Kansas," or ", justice of the peace, at," as the case may be. The officer before whom the depositions are taken should indorse across the back of the envelope, "These depositions sealed up by me," and sign his name officially thereto. (See Testimony.)

Descent and Distribution. The homestead is the absolute property of the widow and children—one-half in value to the widow, and the other half to the children, when both survive. The homestead can not be divided or sold by an action for partition until all the children attain majority. One-half of all real estate owned by husband during coverture, and not conveyed by husband and wife, nor sold at judicial sale, goes to the wife in fee simple; except of land sold by husband whose wife never resided in the State. Remaining estate goes to the surviving children, and living issue of prior deceased, children taking per stirpes, in equal shares, or, if none, to the widow. For want of wife or child the whole estate goes to the parents. The rules applicable to widow of deceased husband apply to husband of deceased wife. Illegitimate children inherit from the mother, and also from the father, if his recognition has been general and notorious, or in writing. When a child would inherit from either parent, such parent will inherit from the child.

Divorce. Divorces are only granted by district court for the following causes: Former marriage; one year's abandonment; adultery; impotency; pregnancy of wife by other than her husband; extreme cruelty; fraudulent contract; habitual drunkenness; gross neglect of duty; conviction of felony; and an action may be commenced to declare the marriage void for want of capacity of understanding of the parties. Subsequent cohabitation is a defense. The plaintiff must have resided in the State one year, and sue in the county of residence, by petition, under oath. In case of service by publication, a certified copy of petition and notice, within three days after first publication, must be mailed to the defendant, and such service must be proved by affidavit, or the plaintiff must make affidavit that the residence of the defendant is unknown. The residence of the plaintiff gives jurisdiction; each party may testify; their admissions may be testified to, and depositions may be used; temporary alimony *pendente lite* and suit money be allowed by court or judge in vacation. The wife's name may be changed and the custody of children awarded to her. A decree of alimony has the same effect, and may be enforced as any other money judgment. Divorce is no bar to future marriage. Proceedings to reverse decree of divorce must be commenced within six months after its rendition, during which time it is bigamy for either party to marry. Alimony may be sued for without divorce. After petition filed, the court or judge in vacation may control, by order, the children and restrain the disposition of the property.

Executions may be ordered as soon as judgment is obtained. It is the duty of the Justice, without any order, to issue execution within ten days from rendition of judgment. Executions are made returnable within thirty days. Personal property levied on must be appraised, and advertised for ten days, and sold at auction to the highest bidder. There is no stay of execution in the District Court, except where a case is taken to the Supreme Court on appeal, and then only upon the giving of proper bonds. In judgments upon notes or mortgages when the written instrument contains the words "appraisal waived," no execution or order of sale can issue until the expiration of six months after the date of judgment. Executions out of District Court are returnable in 60 days. In Justice's Courts, by filing bond, stays of execution are granted as follows: On any judgment for \$20 and under, thirty days; over \$20 and under \$50, sixty days; over \$50 and not exceeding \$100, ninety days; over \$100, one hundred and twenty days. The Legislature of 1893 enacted a law providing for the redemption of real estate sold on execution or order of sale, giving the debtor eighteen months in which to redeem. It provides that where there are original creditors, that after the sale the debtor

shall have twelve months, and if he fails to redeem, then creditors may redeem from each other for three months. The debtor is entitled to possession of the property during the period provided for redemption, and no receiver can be appointed unless he commits waste. This act dispenses with appraisement, and provides also that any contract waiving a right of redemption is invalid. It is not supposed that this law applies to mortgages in existence at the time the law took effect.

Exemptions. Homestead of 160 acres of farming land, or of one acre within an incorporated town or city, with buildings therein, unlimited in value. Every person residing in this State, and being the head of a family, shall have exempt from seizure upon attachment or execution, or other process issued from any court in this State: family Bible, school books, and family library; family pictures and musical instruments used by the family; all wearing apparel of the family, all beds, bedsteads and bedding used by the debtor and his family, one cooking stove and appendages, and all other cooking utensils, and all other stoves and appendages necessary for the use of the debtor and his family; one sewing machine, spinning wheel, and all other implements of industry, and all other household furniture not herein enumerated, not exceeding \$500; two cows, ten hogs, one yoke of oxen and one horse or mule, or in lieu of one yoke of oxen and one horse or mule, a span of horses or mules, and twenty sheep and their wool; necessary food for the support of such stock for one year; one wagon, two plows, drag, and other farming utensils, not exceeding \$300; grain, meat, vegetables, groceries, etc., for the family for one year; the tools and implements of any mechanic, miner, or other person, kept for the purpose of carrying on his business, and in addition thereto stock in trade not exceeding \$400 in value; library, implements, and office furniture of any professional man. Also personal earnings of the debtor earned during three months preceding the garnishment or attachment, and three months' pension money where such earnings or pension money is necessary for the support of the debtor's family. A lien on the homestead may be created by husband and wife joining in the mortgage, also for material used in improvements thereon. Residents, not the head of a family, have tools, implements, and stock in trade up to \$400, exempt from execution.

Interest. Legal rate, six per cent., but ten per cent. may be agreed upon. Excess of ten per cent. is forfeited, and in addition thereto there shall be deducted from the amount due for principal, with lawful interest, an amount equal to the interest contracted for in excess of ten per cent. The legal interest originally contracted for continues until the debt is paid, and no additional interest can be charged by way of penalty for default. A purchaser of a negotiable note for value before maturity, without notice, takes the note free of the usurious taint, the remedy of the maker being against the original holder. (Took effect May 25, 1889.)

Judgments of courts of record are liens on real estate of debtor within the county, but lose their priority over subsequent judgments unless execution is issued and levied within one year after judgment. The lien can be extended to other counties by filing certified copies of judgment. Lien continues for five years, and may be revived within one year thereafter; but the issuance of execution prevents the judgment from becoming dormant until the expiration of five years from date of issue of each execution. Justices' judgments become liens on filing transcript in District Court of the county in which they were rendered.

Limitations of Suits. An action for the recovery of real property, sold on execution or by executors, administrators or guardians, brought by the execution debtor, or the heirs, ward or guardian, or any claiming under them after the date of the judgment or order of sale must be within five years after the deed is recorded. To recover by holder of tax deed within two years, and against holder of tax deed within five years after recording of tax deed. Other actions for recovery of real property, within fifteen years after cause of action accrues. On official bonds and contracts in writing, five years. Contracts not in writing, three years. Trespass, detinue, replevin, injuries not arising on contract, and relief on the ground of fraud, two years. The time during which any defendant has been absent from the State, or has absconded or concealed himself, is not to be computed as any part of the period of limitation. If the cause of action arose in another State between non-residents of this State, and by the laws of the State where the action arose the action is barred, it is barred in this State. Any case founded on contract, part payment or a written acknowledgment or promise, renews the contract. The statute runs from the date of such renewal.

Married Women. The real and personal property owned by a woman at the time of her marriage, together with the rents and profits thereof, and any property which comes to her by descent, devise or bequest or gift of any person except her husband, remains her sole and separate property notwithstanding her marriage, and is not subject to the disposal of her husband or liable for his debts. Married women may sell and convey their real and personal property and enter into any contract with regard to the same in the same manner and to the same extent as a married man may in relation to his property. She may sue and be sued in the same manner as if she were single. She may carry on any trade or business, perform labor or services for her separate account, and her earnings or proceeds from labor, trade or business remain her separate property, and may be used and invested by her in her own name.

Mortgages. A mortgage of real estate, to be valid as against subsequent *bona fide* purchasers, must be duly acknowledged and recorded in the office of the Register of Deeds of the county where the land is situated in the same manner that other real estate conveyances are. In the absence of stipulations to the contrary, the mortgagor of real property retains possession until the mortgage is duly foreclosed and sheriff's deed delivered to the purchaser. Mortgages may be discharged on margin of record by mortgagee or attorney or assignee in presence of register, or by satisfaction entered on the instrument when copied on the margin by the register; or by an independent release duly acknowledged and recorded. Wife must join in all mortgages except those for purchase money.

Mortgages are foreclosed *by suit only*, in which all parties in interest, subsequent lien holders as well as prior, are made parties defendant. No real estate within this State shall be sold for the

payment of any money, in security for which it may have been pledged, except in pursuance of a judgment of a court of competent jurisdiction ordering such sale. There is no strict foreclosure in Kansas. (For Forms, see *Deeds*.)

(For Mortgages on Chattels, see *Chattel Mortgages*; see *Executions*.)

Notes and Bills of Exchange. All bonds, notes, and bills of exchange, except bank checks and sight drafts, made negotiable, shall be entitled to three days of grace in the time of payment. All bonds, notes, and bills of exchange, foreign and inland, drawn for any sum or sums of money, certain, and made payable to any person or order, or to any person or bearer, shall be negotiable by *indorsement* thereon if payable to order, and by *delivery* if payable to bearer, so as to absolutely transfer and vest the property thereof in each and every indorsee or holder, successively; but nothing in this section shall be construed to make negotiable any such bond, note, or bill of exchange, drawn payable to any person or persons *alone*, and not drawn payable to any order, bearer or assigns. No person or persons, bank or body corporate, residing or doing business within the limits of this State, can be held liable for protest damages on any bond, note or bill protested heretofore or hereafter for non-acceptance or non-payment. Whenever the third day of grace falls upon a Sunday, July 4, December 25, or January 1, or upon any day appointed for a public fast or thanksgiving, the next preceding day is the last day of grace. By act of 1893 a provision in note, bond or mortgage making amount payable in gold is void.

Protest. (See *Notes and Bills*.)

Suits. (See *Actions*.)

Taxes. One-half the annual levy becomes due December 20, and if not paid all becomes due and there is a penalty of five per cent. added. If not paid by June 20 still another five per cent. is added. The tax is then delinquent, and real property is subject to sale on the first Tuesday in September following. After sale it bears interest at the rate of fifteen per cent. per annum, and the same rate on all subsequent taxes. Lien attaches to real estate on November 1 in the year in which tax is levied, and lands sold for taxes are redeemable within three years from day of sale and until deed is issued.

Testimony. No person is disqualified as a witness, in either civil or criminal cases, by reason of his being a party to, or interested in, the event of the action, or on account of any religious belief, or by reason of his conviction of a crime. This rule of evidence extends to actions for divorce as well as all others, and even the admissions of the parties are received.

In criminal cases, the failure of the accused to testify can not be alluded to in argument or construed as any evidence of guilt. No party will be allowed to testify in his own behalf in respect to any transaction or communication had personally by such party with a deceased person, when the adverse party is the executor, administrator, heir at law, next of kin, surviving partner, or assignee of such deceased person, when they have acquired title to the cause of action immediately from such deceased person; or of transactions when the other party thereto is deceased; or of transactions with a deceased partner or joint contractor in the absence of his surviving partner or joint contractor; in all cases, however, when the deceased's deposition has been taken, and is used on the trial, the adverse party may testify.

The following persons are incompetent to testify: Persons of unsound mind; children under ten years of age, except in the discretion of the court; husband and wife for or against each other, except in cases of agency or joint interest; but in no case concerning communications made during marriage; nor an attorney, clergyman, or physician, with reference to confidential communications made to them, unless the party offers himself as a witness, in which case the communications to such attorney, clergyman, or physician on the same subject are admissible.

Trusts and Powers. All trusts concerning lands must be created in writing except such as arise by implication of law, and no trust, whether implied or created, can defeat the title of a purchaser for a valuable consideration without notice. All instruments creating trusts, duly executed and acknowledged, may be recorded in the office of the register of deeds of the county where the land is situated, and the record of such trust shall be deemed actual notice to all persons claiming under a conveyance made after the recording of the trust deed. A party paying money to a trustee in good faith is not responsible for the application of the money so paid. Nor can any fraudulent application of the money by the trustee affect the title of such a purchaser. No trust results to one paying the consideration for a conveyance to another except in favor of creditors or in case of fraud. A dry or passive trust passes the title directly to the beneficiary. The over-execution of a power is only void *pro tanto*. A married woman may be given a power of sale of her fee without the concurrence of her husband. A power of sale in a conveyance as security passes to the one entitled to the money the payment of which is secured.

Warehouse Receipts. Warehouse receipts shall not be issued unless the property therein described has been *bona fide* received into store and shall be in store at the time of issuing the receipt. No such receipt shall be issued as security for a loan or debt unless the property therein described shall be at the time the property of the person or company issuing the same and actually in store at the time of issuing such receipt. No person shall sell, encumber, ship, transfer, or in any manner remove beyond his immediate control any property for which a receipt has been given as aforesaid, without the written assent of the person holding such receipt. Receipts for grain issued by any warehouse are negotiable by endorsement in blank or by special endorsement in the same manner and to the same extent as bills of exchange and promissory notes. Violation of the provisions of the act is a felony, the penalty being not less than \$1,000 and not more than \$5,000 fine, and imprisonment in the penitentiary not less than one year nor more than five years.

Wills. Any person of full age and sound mind and memory, having an interest in real or personal property of any description whatever, may give and devise the same to any person by last will and testament lawfully executed, subject, nevertheless, to the rights of creditors, and to the provisions of this act. Wills must be in writing, signed at the end by the testator, or another in his

presence and by his express direction, and subscribed in his presence by two or more competent witnesses who saw him subscribe or heard him acknowledge it. Compliance with these requirements should appear in the witnessing clause. A will executed, proved, and allowed in another State, according to the laws of that State, relative to property in this State, may be admitted to record in the Probate Court of the county in which such property is situated, by producing an authenticated copy, and thereupon has the same validity as if made in this State.

Every will, when admitted to probate, shall be filed in the office of the Probate Court, and recorded, together with the testimony, in a book to be kept for that purpose.

Any person may make a will in writing and inclose the same in a sealed wrapper, with the name of the testator indorsed thereon, and deposit the will so inclosed and indorsed in the office of the Judge of the Probate Court in the county in which such testator lives, subject to the order of the testator only during his life, and after his death to be delivered to the party named on the back of the package as the party to whom it is to be delivered; and if no such party is named, then to be publicly opened in the Probate Court within two months after notice of the death of the testator.

KENTUCKY.

(Revised by W. O. HARRIS, Attorney at Law, Louisville.)

Acknowledgments and Certificates. Deeds executed within the State must be acknowledged before the Clerk of the County Court or Notary Public. Deeds other than those of married women may also be acknowledged before and proven by two witnesses. Deeds executed without the State and within the United States must be acknowledged before the Clerk of a Court or his deputy, Notary Public, Mayor of a city, Secretary of State, Commissioner of Deeds, or Judge of a Court.

Deeds executed without the United States must be acknowledged before a foreign Minister, Consul, or Secretary of Legation of the United States, or the Secretary of Foreign Affairs, or Judge of a Superior Court of the nation where the deed shall be executed, attested in either case by the officer's seal of office. When the acknowledgment is taken by an officer of this State he shall simply certify that the deed was acknowledged before him, and when it was done.

When the acknowledgment is taken by an officer residing out of this State it must be certified in effect as follows:

State of } SCT.
County }

I do certify that this instrument of writing from and his wife, was this day produced to me by the parties, and acknowledged and delivered by and his wife, parties thereto, to be their act and deed, and the contents and effect of the instrument being explained to the said by me, separately and apart from her husband, she thereupon declared that she did freely and voluntarily execute and deliver the same to be her act and deed, and consented that the same might be recorded.

Given under my hand and seal of office this day of

Assignment and Insolvency. There are two statutory provisions on the subject of insolvency. *First.* Any assignment, mortgage, sale, judgment, or other device resorted to by a debtor in contemplation of insolvency and with a design to prefer one or more creditors, if assailed by petition, filed within six months after the transfer is recorded, shall enure as a general assignment of all the debtor's effects for the equal benefit of all creditors. *Second.* Assignees for the benefit of creditors are required to execute bond with surety to be approved by the County Court, and to take an oath faithfully to execute the trust. They must also return an inventory within sixty days, and a report of sales within two years from qualification.

Attachments. The plaintiff in an action to recover money may obtain an attachment against: *First.* A defendant who is a foreign corporation or a non-resident of the State. *Second.* Who has been absent therefrom four months. *Third.* Who has departed therefrom with intent to defraud his creditors. *Fourth.* Who has left the county of his residence to avoid the service of a summons. *Fifth.* Who so conceals himself that a summons can not be served upon him. *Sixth.* Who is about to remove or has removed his property or a material part thereof out of this State, not leaving enough therein to satisfy the plaintiff's claim, or the claims of said defendant's creditors. *Seventh.* Who has sold, conveyed, or otherwise disposed of his property, or suffered or permitted it to be sold, with the fraudulent intent to cheat, hinder, or delay his creditors. *Eighth.* Who is about to sell, convey, or otherwise dispose of his property with such intent. (But an attachment shall not be granted on the ground that the defendant is a foreign corporation or a non-resident of this State, for any claim other than a debt or demand arising upon a contract, express, or implied, or a judgment, or award.) Also in an action for the recovery of money due upon a contract, judgment, or award, if the defendant have no property in this State subject to execution, or not enough thereof to satisfy the plaintiff's demand, and the collection of the demand will be endangered by delay in obtaining judgment or a return of no property found. Also in an action to recover personal property which has been ordered to be delivered to plaintiff, and which property or part thereof, has been disposed of, concealed, or removed, so that the order for its delivery can not be executed by the sheriff.

Affidavit and Bond. Before an attachment can be obtained an affidavit must be filed, showing: 1st. The nature of plaintiff's claim. 2d. That it is just. 3d. The sum which affiant believes the plaintiff ought to recover. 4th. The ground of a attachment. In an action upon a return of "nulla bona" no bond is required, but in all other cases bond must be given, with good surety, in double the amount of the claim.

Bills of Lading. There is no statutory provision on this subject in Kentucky.

Collaterals. There are no statutory provisions on this subject in Kentucky.

Contracts. A seal or scroll is in no case necessary to give effect to a deed or other writing. All unsealed writings stand upon the same footing with sealed writings, having the same force and effect, and the same actions may be founded upon them. The State or County seal or the seal of a Court, corporation, or Notary to any writing has not, however, been dispensed with. Champertous contracts, gaming contracts, and contracts or assurances made or given in consideration, in whole or in part, of any ticket or share in a lottery or share in a prize therein, are void.

Corporations. By the constitution adopted September 28, 1891, the power to grant special charters to corporations is taken away from the Legislature, which is required to enact general laws for the incorporation of companies. The constitution also repeals all existing charters under which business has not in good faith been commenced prior to September 28, 1891. The following is an outline of the provisions of an Act which became a law April 5, 1893:

Existing Corporations are allowed to operate under their charters until September 28, 1897, when all provisions thereof inconsistent with the new Act shall stand repealed, and thereafter the corporation shall be deemed to be organized under said Act. Such corporations may also reorganize under the new Act, or may amend their charters under it; but in the latter case it must first, by resolution of its Board of Directors, accept the provisions of the new constitution.

All corporations are required to have a sign over their principal place of business, and on such sign and on all printed or advertising matter, to cause to be painted or printed the word "Incorporated," under penalty of fine of not less than \$100 nor more than \$500.

Any number of persons not less than three may become incorporated by signing and acknowledging articles of incorporation, specifying: 1st. The name of the corporation. 2d. Its principal place of business. 3d. The nature of its business. 4th. The amount of capital stock, if any, and number of shares. 5th. Names, places of residence, and number of shares subscribed by each stockholder. 6th. Date of commencement and of termination of corporate existence. 7th. By what officers business is to be conducted and time and place of election. 8th. Highest amount of indebtedness or liability which corporation may incur. 9th. Whether private property of stockholders, not subject by the provisions of the Act to corporate debts, shall be liable therefor, and, if so, to what extent. Said articles shall be acknowledged and recorded like deeds in the County in which the principal place of business is situated, and a copy thereof filed and recorded in the office of the Secretary of State. After such filing and recording, and the payment to the State of a license tax of one-tenth of one per cent. on its capital stock, the corporation is deemed fully organized; but, before transacting any business other than with its own stockholders, at least 50 per cent. of its stock must in good faith be subscribed, payable at such times as the Board of Directors may require. Stockholders are liable to creditors for their unpaid subscriptions, and to the extent of the par value of the stock in addition. From this double liability are excepted stockholders in the following classes of corporations, to wit: Charitable, benevolent, turnpike, bridge, railroad, telegraph, telephone, mining, water-way, water, gas, and salt companies. Corporations are forbidden to take a lien on or purchase their own stock, except to secure a past indebtedness, or to engage in any business other than that for which it was organized, or to hold real estate in excess of what is necessary for carrying on its business, for a longer time than five years, under penalty of escheat.

Directors must not be less than three in number and each must own not less than three shares of stock. Elections must be by ballot and shall be held in this State. The first election must be held at a meeting held before the corporation commences business, and thereafter an election must be held annually on the day named in the by-laws, which must not be changed within sixty days of the election. Of any such change notice must be given to each stockholder twenty days before the election.

Any corporation organized under this act may, by the consent in writing of a majority of its stockholders, unless otherwise provided in its charter, close its business.

Notice of such closing must be published at least once a week for four consecutive weeks in some newspaper published in the county, and all debts must be paid in full before the officers receive anything.

Corporations organized to carry on the business of banking, building and loan, trust insurance, and railroading, are governed by special provisions of the act.

Days of Grace. There is no statute on this subject, and our courts hold that it is regulated by the custom of the place of payment. The custom generally prevailing in Kentucky, is to allow three days of grace on all negotiable instruments.

Depositions. Proof may be taken by depositions in all equitable actions, and in ordinary or common law actions, where the witness resides twenty miles or more from the place where the court is held, or is absent from the State, and in many other cases enumerated in the statute where the witness is privileged.

Depositions are taken either on notice to the opposite party or upon written interrogatories. The ordinary method of taking is upon notice, but where the place of taking is more than one day's travel by ordinary methods and more than one hundred miles from the place of sitting of the court, the party receiving notice may require the deposition to be taken upon interrogatories by giving notice to that effect to the adverse party or his attorney upon the same day, or the day following the one upon which the first notice was served. Except in divorce cases, depositions are required to be taken upon interrogatories, if all the parties against whom they are to be read have been constructively summoned and have not appeared, or be defendants, or under disability other than coverture or infancy and coverture combined. In several other cases enumerated in the Civil Code, the court may require depositions to be taken upon interrogatories, and they may always be so taken by consent of all parties.

The officers authorized to take depositions in this State, to be used in its courts, are: An examiner appointed by the Judge of the Circuit Court of his district, a Judge or Clerk of a Court, a Justice of Peace, or a Notary Public.

Depositions may be taken out of this State before a Commissioner appointed by the Governor of this State, or before a Judge of a Court, a Justice of the Peace, Mayor of a city, Notary Public, or any other person empowered by a commission issued to him by consent of the parties or by order of the Court.

If the deposition is taken upon interrogatories neither party is allowed to be present, either in person or by agent or attorney.

The officer's certificate must state when and where the deposition was taken; that the witness was duly sworn before giving it, and that it was written and subscribed by him in the officer's presence, or was written by the officer in the presence of the witness and read to and subscribed by the witness in the presence of the officer.

The certificate must also state whether or not either of the parties, and, if either, which of them was present in person or by agent or attorney during the examination of the witness.

The officer may transmit the deposition in a sealed envelope addressed to the Clerk of the Court, with an endorsement showing the style of the action, and that the envelope contains depositions. This may be sent by mail or by private person, in which case the person must make oath that they have not been opened in transit.

Executions. An execution may be issued upon a judgment at any time until the collection of it is barred by the statute of limitations, but no execution shall be issued on any judgment, unless ordered by the court, until after the expiration of ten days from the rendition thereof. An execution constitutes a lien on the property of the debtor from the time it reaches the hands of the proper officer. Except as hereinafter stated, any execution upon a judgment may be replevied for three months at any time before a sale under the same, by the defendant giving to the officer an obligation (known as a replevin bond) payable to the plaintiff, with good surety for the amount thereof, including interest and costs.

A judgment to enforce a lien can not be replevied. No replevy is allowed upon a judgment against any collecting officer or attorney at law, or agent, for a delinquency or default in executing or fulfilling the duties of his office or place, or for failing to pay over money collected by him in such capacity, nor against a principal by his surety, nor upon a debt due by obligation having the force of a judgment, nor upon a judgment for specific property, or for the property or its value. Before a sale of land under an execution, the officer shall cause it to be appraised under oath by two disinterested, intelligent housekeepers of the county; and if the land so sold does not bring two-thirds of the valuation, the defendant and his representatives shall have the right to redeem the same within a year from the day of sale, by paying the purchaser or his representatives the original purchase money and ten per centum per annum interest thereon.

Exemptions. The following property is exempt from execution, attachment, distress or fee bill, namely: Two work beasts, or one work beast and one yoke of oxen, two plows and gear; one wagon and set of gear, or cart or dray; two axes, three hoes, one spade, one shovel, two cows and calves, beds, bedding and furniture sufficient for family use; one loom and spinning wheel and pair of cards; all the spun yarn and manufactured cloth manufactured by the family necessary for family use; carpeting for all family rooms in use; one table; all books not to exceed \$50 in value; two saddles and their appendages; two bridles; six chairs, or so many as shall not exceed \$10 in value; one cradle; all the poultry on hand; ten head of sheep, not to exceed \$25 in value; all wearing apparel, sufficient provisions, including breadstuff and animal food, to sustain the family for one year, if not on hand, other personal property, wages, money or growing crop, not to exceed \$40 in value for each member of the family; provender suitable for live stock, if there be any such stock, not to exceed \$70 in value, and if such provender be not on hand, such other property as shall not exceed such sum in value; all washing apparatus not to exceed \$50 in value; one sewing machine, and all family portraits and pictures; one cooking stove and appendages, and other cooking utensils not to exceed in value \$25. The tools of a mechanic, not exceeding \$100 in value, are exempt. The libraries of ministers of the gospel; the professional libraries of lawyers; the professional libraries and instruments of physicians and surgeons, not exceeding \$50 in value, are exempt. The wages not to exceed \$50 of all persons who work for wages are exempt, except as to debts contracted for food, raiment, or house rent for the family.

In addition to the personal property exempt from execution, etc., there is a homestead exemption of so much land, including the dwelling house and appurtenances owned by the debtor as shall not exceed in value \$1,000. This exemption does not apply to debts or liabilities which existed prior to the purchase of the land, or the erection of the improvements thereon. Only those persons are entitled to exemptions who have families resident in this commonwealth. If the land exemption is claimed, they must also be housekeepers.

Interest. The lawful rate of interest is six per centum per annum, and contracts for a greater rate are void as to the excess of interest.

Judgments. A judgment does not constitute a lien on property in this State. All judgments except for malicious prosecution, libel, slander, or injury to the person, bear interest from their dates. (See *Executions and Limitations*.)

Limitations. The following are the periods within which actions must be brought, the time commencing to run from the accrual of the cause of action. *Fifteen years:* Actions to recover real property; actions upon judgments and written contracts, except negotiable instruments. *Seven years:* Actions by senior patentees against junior patentees, who have held possession for seven years. *Five years:* Actions upon verbal contracts, upon a liability created by statute; actions for trespass to real or personal property or for damages for withholding same; for the specific recovery of personal property; actions upon negotiable instruments; actions upon accounts between merchants, and actions for relief from fraud or mistake. *Two years:* Actions upon merchants' accounts for goods sold. *One year:* Actions for injury to person or character, and for breach of promise of marriage.

Married Women. During the life of the wife, the husband has no estate or interest in her real property. The real estate

of the wife is not liable for any debt of the husband, but is liable for all of her own debts contracted before marriage, and for such of them contracted after marriage as shall be for necessities for herself or any member of her family, and shall be evidenced by a writing signed by her. The husband is not liable for the debts of the wife contracted before marriage, except to the amount or value of the personalty he may have received from her by reason of the marriage, but he is liable for necessities furnished to her after marriage. Married women may convey real estate by joint deed with their husbands or by separate deed, but in the latter case the husband must previously have conveyed. The conveyance must be acknowledged before some one of the officers previously named (see *acknowledgments*), and recorded in the office of the Clerk of the County Court where the land lies. An acknowledgment before witnesses will not suffice. Recording is necessary to give validity to the deed of a married woman. As to other persons, recording is only necessary in order to make the deed valid against creditors and purchasers for value. On the joint petition of the husband and wife, or on petition of the wife, the husband being made a party thereto, filed in the Circuit Court in the County of her residence, and on satisfactory evidence that the application is not made with the intent to cheat, hinder, or delay the creditors of the husband, and that his creditors will not be injured, the court may empower the wife to use, enjoy, sell or convey, for her own benefit, any property she may own or acquire, free from the claim or debts of her husband; or to make contracts, sue and be sued as a single woman, or to trade in her own name; or to dispose of her property by will or deed. Any married woman who shall come to this commonwealth without her husband, he residing elsewhere, may acquire property, contract, and bring and defend actions as an unmarried woman.

A married woman may make a valid will. She may also make a mortgage to secure her own debt, but not that of her husband or any other person.

Mortgages. No deed of trust or mortgage, conveying the legal or equitable title to real or personal estate, shall be valid against a purchaser for a valuable consideration without notice thereof, or against creditors, until such deed shall be acknowledged or proved according to law, and lodged for record. Any person fraudulently selling, concealing, or disposing of any personal property, on which there is a mortgage of record, with intent to prevent the enforcement of the lien thereon, or the foreclosure of the mortgage and sale of the property, shall be deemed guilty of a misdemeanor. Liens, by deed or mortgage, may be discharged by an entry acknowledging satisfaction of the same on the margin of the record thereof, signed by the person entitled to same and attested by the clerk. The release to be effective must be made by the person shown by the record to be the holder of the lien notes.

Notes and Bills of Exchange. All bills of exchange are negotiable, but notes are only made so when "payable and negotiable at any bank incorporated under any law of this commonwealth or organized in this commonwealth under any law of the United States, which shall be indorsed to and discounted by the bank at which the same is payable, or by any other of the banks in the commonwealth as above specified."

Non-negotiable instruments are assignable so as to vest a right of action in the assignee, but any defense good against the payee and arising before notice of the assignment is good against the assignee.

Indorsers of non-negotiable notes can only be held after suit and return of "no property" against the maker commenced and prosecuted with due diligence. What is "due diligence" has not been exactly determined, but a delay of ten days has been held to release the indorser from all liability.

Protest. Protest should be made upon the last day of grace. It is essential to a recovery against indorsers on foreign bills or negotiable notes placed in their rank, but an inland bill is not required by law to be protested, nor is a certificate of a notary of such protest evidence of itself of dishonor.

Suit. Suits are commenced by filing in the clerk's office of the proper court a petition setting forth the cause of action and causing a summons or warning order to be issued thereon. Non-residents of the State are required to give security for costs.

Taxation. All real and personal property in this State, all personalty belonging to persons residing in this State, and all property of corporations organized under the laws of this State are subject to taxation. Personal property includes choses in action and all intangible property. Corporations, in addition to the tax upon their property, must also pay a tax upon their franchises, the value of which is fixed by a Board consisting of the Auditor, Treasurer, and Secretary of State. The following classes of property are exempt from taxation: Public property, places of worship, cemeteries, charitable institutions, educational institutions not conducted for gain, public libraries and their endowments, parsonages and household goods to the value of \$250. Assessment is made as of September 15th of each year. Taxes of banks and trust companies are due July 1st, those of other corporations thirty days after notice. For non-payment a fine of \$50 is assessed, and interest runs at the rate of 10 per cent. per annum. Taxes of individuals are due March 1st, after which time they may be collected by distress on goods and chattels. After July 1st real estate may be sold, and after November 1st a penalty of 6 per cent. on the face of the bill is added. Property sold may be redeemed by paying interest at the rate of 30 per cent. per annum and a penalty of 15 per cent. on the tax.

Wills. Any person of sound mind and over twenty-one years of age may make a will. Wills must be in writing with the name of the testator subscribed thereto either by himself or by some other person in his presence and by his direction. If not wholly written by the testator the subscription must be made or the will acknowledged by the testator in the presence of two witnesses, who shall subscribe their names in the presence of the testator.

The will of a person domiciled out of this State is valid as to personalty, if executed according to the law of the domicile; but to be valid as to lands, it must be executed as required by the law of this State.

LOUISIANA.

BANKING LAW.

(Revised by F. L. RICHARDSON, Attorney at Law, New Orleans.)

There is no State official examination. The State banks make quarterly statements of their condition by publication. Since the adoption of the constitution of 1879, banking corporations must be organized under the general free banking laws adopted in 1855, amended in 1892 as hereafter stated. Savings, Deposit and Trust Companies provided for by act 150 of year 1888. The number of persons organizing must exceed five. No special acts of incorporation can be passed. There are no laws requiring Savings banks to invest in any particular class of bonds. There are seven banks in the city of New Orleans still doing business under State charters—the Citizen's Bank, the Canal Bank, and the People's, Bank of Commerce, Germania Savings, Metropolitan, Traders. The others are National banks. By Act 95 of 1892, the General Banking Act of 1855 was amended as follows: 1. Period of time must be fixed in Act not to exceed 99 years. 2. Banks can not hold real estate for longer time than five years, except such as is necessary for the transaction of their business, or except that held as agent or trustee. 3. All managers and directors shall be citizens of Louisiana. 4. Safe Deposits and Trust Banks without power to issue bank notes, may be organized under this law with a capital of \$50,000 or more, of which capital at least \$10,000 shall be paid up before commencing business. It may be made a receiver, trustee, assignee or syndic, and execute trusts of every description. The capital stock as paid in shall be taken as security. Money or other valuables deposited by married women or minors may be drawn out without the authority of their husbands or tutors.

COMMERCIAL LAW.

The laws of this State are found in the Louisiana Civil Code, Code of Practice, and Revised Statutes of the State, adopted in 1870, and legislative acts, and the Constitution, adopted in 1879—as interpreted by the decisions of the Supreme Court of the State, published in its Law Reports from the 1st Martin's Reports in 1811, to the 42d Annual Reports published in 1891, inclusive.

Acknowledgments of deeds executed within the State may be made before a Notary Public, Parish Recorder or his deputy, in the presence of two witnesses. These witnesses must be males over 14 years of age. In other States, before a Commissioner of Louisiana, or any officer authorized to take depositions in the State where he resides, but the official character of such officer must be properly verified. A Louisiana Commissioner may certify to the official position of any public officer in the State for which he is appointed. An account or claim can be proved by the ex-parte affidavit of creditor where there is no contest. No seal or scroll of private individuals is authorized or required by the laws of this State. When a married woman executes a deed with her husband, she must be examined by the officer separate and apart from her husband to ascertain if she acts under his coercion.

A deed to be authentic and to be admissible in a court of justice without other proof of signature, must be acknowledged and signed before a Notary or Commissioner of Deeds in the following form:

"I, the undersigned authority, do certify that the above deed was signed and subscribed to before me by said..... in the presence of said..... and..... lawful witnesses, male and over 14 years of age, who declares that he signed the above, being aware of the contents, and is for the purposes therein contained. In witness whereof I have hereunto set my name and seal on this, the... day of189. Signed..... Notary.

In other States the Notary must annex a certificate of the Governor of the State showing his appointment as Notary.

This is not required of a Commissioner of Deeds for the State of Louisiana.

Assignments and Insolvency. Under the State laws insolvent debtor may make surrender of property to creditors, or an involuntary surrender may be forced by any creditor who shall have issued an execution which is returned unsatisfied. Surrender vests all property of debtor in creditors, and stops all legal proceedings against him. Debtor must file sworn schedules of assets and liabilities. Creditors elect a syndic at a meeting of creditors before a Notary Public appointed for that purpose, who gives bond and manages the estate. Mortgage or privilege creditors are not bound by the decision of the majority of the creditors if they wish to sell the property, but may ask for the sale of sufficient to pay the mortgage or privilege debt. Debtor can only obtain final discharge by consent of a majority of creditors in number and amount, and where discharge is not granted, debtor can be forced to make a new cession, when he can be shown to have acquired property, but debts subsequently contracted are entitled to preference. Where a jury find the debtor guilty of fraud, he is deprived of the benefit of the insolvent laws, and is liable to imprisonment. A debtor can not make a volunteer extra judicial assignment of his property and obtain his discharge without the consent of all of his creditors. No time limited for applying for discharge. *Respite*—A debtor alleging that he can not meet his obligations, but that he has assets sufficient to pay his debts in full if given time, may, on filing a schedule of his assets and liabilities, on his ex-parte application, obtain a stay of proceedings against him, and call a meeting of his creditors before a Notary. The vote of a majority in number and amount of these may give him an extension of time not to exceed three years. Creditors opposing may require security. If a respite is granted by a majority of the creditors in number and amount, the debtor is allowed to keep and dispose of his property as he pleases, and the only consequence of his failure

to pay his installments upon his debts is that insolvency ensues and he surrenders what is left, if any, to a syndic. A creditor may protect himself by a writ of sequestration or attachment.

Attachment. Writs of attachment issue on application of creditor, under oath, when the debtor resides out of the State; when he conceals himself to avoid being cited; when he has mortgaged, assigned or disposed of, or is about to mortgage, assign, or dispose of his property, rights, or credits, or some part thereof, with intent to defraud his creditors or give an unfair preference to some of them; and when he has converted, or is about to convert, his property into money or evidences of debt with intent to place it beyond the reach of his creditors, or, if debt not due, is about to remove his property out of the State. Creditor must furnish bond equal to the amount claimed to be due, with at least one solvent surety, residing within the jurisdiction of the court, conditioned for payment to any party injured by issuance of writ of all damages sustained by him in case it is decided that the attachment was wrongfully obtained. Arrest of the debtor is allowed, but is of little practical value, as it only secures the person of the debtor to answer the suit, and he can not be held for the payment of the debt. Corporations may be sued in place where damage or trespass is done, before magistrate's court, when the damage is not over \$100. [Act No. 7, 1888.] Garnishment may be had as an accessory either to a writ of attachment or *feri factas*.

Corporations. Statutory Provisions. Under the general laws of this State, any number of persons, exceeding six, may form themselves into corporations for literary, scientific, religious, and charitable purposes; for works of public improvement, and generally all works of public utility and advantage; and any number of persons, not less than three, may form themselves into a corporation for the purpose of carrying on mechanical, mining, or manufacturing business, except distilling or manufacturing intoxicating liquors, with a capital not less than \$5,000 or more than \$1,000,000; and any number of persons, not less than twenty-five, may form themselves into a corporation for athletic, military, gun practice, or social purposes. Any number of persons, not less than three, may form themselves into a corporation on complying with the general corporation laws, for the purpose of carrying on any lawful business or enterprise not otherwise specially provided for, except stock-jobbing. The Legislature can not pass a special act conferring corporate powers.—Constitution 1879, Art. XLVI. The general laws under which corporations are formed are subject to alteration, amendment, and repeal.

All classes of foreign insurance corporations may transact business in this State. A deposit of \$25,000 is first required. This deposit must be made with the Secretary of State, but if a similar deposit has already been made in any other State of the Union, the deposit is not required. This deposit is required to be made in cash. See Act 1866, p. 15. But if securities are deposited in other States it will answer. They are deposited with the State Treasurer. A certificate of authority to transact business is issued by the Secretary of State. No license fee or tax need be paid before the certificate of authority will be issued. Full detailed annual statements are required to be made by foreign insurance corporations. These must show any losses on the 1st of January of each year.

The certificate of authority to transact business will be revoked when the foregoing provisions are not complied with. All foreign insurance corporations may hold real estate wherever and to whatever extent they choose. Mutual or assessment corporations will be admitted to do business in this State when they comply with the laws applicable to other classes of insurance corporations.

Courts. Terms and Jurisdiction. The courts of original jurisdiction are: In parishes other than Orleans: (1) Justices' Courts—Exclusive jurisdiction up to \$50, and, concurrent with the District Courts, between \$50 and \$100. (2) District Courts—Concurrent with Justices' Courts, between \$50 and \$100; exclusive for all civil matters over \$100, and in all probate matters. *B. In Orleans Parish:* (1) City Courts—Exclusive jurisdiction up to \$100. (2) Civil District Courts—Exclusive over \$100. Justices and City Courts open at all times. In parishes other than Orleans, District Courts have four terms in each parish. In parish of Orleans, Civil District Court sits all the year round, by Act 111 of year 1892. On amounts from \$100 to \$2,000, inclusive, an appeal may be taken to the Court of Appeals, and on errors of law alone on amounts under \$500, and on all amounts over \$2,000, to the State Supreme Court. An appeal lies on both law and facts.

Days of Grace. The days of public rest, and no others, in this State: The first and eighth of January, twenty-second of February, Good Friday, Fourth of July, first of November, twenty-fifth of December, Thanksgiving Day, Mardi Gras, and the twenty-fifth of November, known as Labor Day, and in cities with a population exceeding 100,000 a Saturday half holiday. Commercial paper falling due on these days is payable the day following.—Act July 7, 1892.

Execution. Property taken under a writ of *feri factas* must be advertised and appraised, and can not be sold for less than two-thirds of the appraised value, until it has been re-advertised. Advertisements of movables for ten days—of real estate for thirty. If two-thirds of appraised value is not bid, property must be re-advertised for fifteen days, and sold on a credit for twelve months for whatever it will bring. There is no redemption of property sold under execution or mortgage. No stay of execution is given except on appeal, and execution may issue at any time after the delay for appealing suspensively has expired. Embezzlement punished by imprisonment not exceeding seven years. [Act 1888.]

Exemptions. To head of family, real estate if owned and occupied as a residence, together with certain furniture, stock, implements, provisions, etc.; the property not to exceed \$2,000, and no exemption if wife has separate property worth over \$2,000. Widow surviving is entitled to \$1,000 out of deceased husband's estate, if in necessitous circumstances, by preference over even a first-mortgage creditor.

Interest. Legal rate is five per cent., but eight per cent. may be agreed upon. If higher than eight per cent. is charged, such charge forfeits entire interest. If paid, it may be sued for and recovered within twelve months. But a higher rate may be recovered if included in the principal of the note.

Judgments recorded in the office of the Parish Recorder become mortgages from date of record upon all real estate of the debtor

and may be thus recorded in any parish where debtor owns real estate. They are valid for ten years, when they must be renewed.

Limitations to Suits. Prescription—Accounts stated and acknowledged in writing are prescribed only by ten years. [Act of 1888.] Personal actions one year: Action for torts of all kinds; for injury to or non-delivery of merchandise shipped on vessels; for fees of justice, notary or constable; for innkeepers' accounts; for accounts of retailers of liquors; for wages of laborers or sailors; for freight and for tuition by month. Three years: Action for arrearages of rent charges, or hire of movables or immovables for money lent; for salaries of overseers, clerks, or tuition by quarter or year; for fees of physicians, apothecaries, attorneys, sheriffs, clerks and recorders; on open accounts of merchants, whether wholesale or retail, and others. Four years: Actions by minors against their tutors, counting four years from majority. Five years: Actions on bills of exchange or promissory notes, counting from maturity, and for nullity of contracts or wills; for rescision of partitions; to set aside public and judicial sales for informalities. Ten years: All other actions; the right to a usufruct or servitude; all judgments, whether rendered within or without the State, but judgments may be revived before lapse of ten years, and are then good for ten years from date of revival. Real actions—Ten years: Where possessor holds in good faith, and under an apparently good title, his title is perfect by ten years' possession. Thirty years: Possessor, whether in good or bad faith, even without title, acquires title by thirty years' possession. Renunciation of an acquired prescription can be proved only by writing, signed by debtor, or his agent; interruption, if debtor living, may be proved by parole, but if he be dead, must be proved by signed writing. A sale of real estate may be rescinded for non-payment of the price within ten years after the last payment becomes due. Prescription does not run against minors or persons under interdiction. Husband and wife can not prescribe against each other.

Married Women. Separate property of wife may be controlled by her; revenues of all separate property administered by the husband, and all property acquired by either husband or wife after marriage constitute part of community, unless bought with the separate means of either and as a separate acquisition. A married woman can not sue without the concurrence of her husband or the authorization of the Court, and she can not bind herself or her property for his debts. Wife has no dower in her husband's real estate. The wife can have no claim upon the property of the husband to the prejudice of third parties, unless recorded. Where one of the spouses is agent for the other, he or she may be witness for the other in a matter connected with that transaction. After dissolution of marriage by death the survivor is entitled to one-half of all property remaining after payment of debts acquired during marriage, and the usufruct of the other half, unless this half is disposed of by will of deceased spouse.

Mortgages can be foreclosed at any time after maturity of the debt by instituting a regular suit and obtaining judgment thereon, or, if the act imports a confession of judgment in favor of the holder, he can apply to the court for an order directing the Sheriff to seize and sell the property. All mortgages must be recorded before they can have any effect as against third parties. Trust deeds are not legal, and chattel mortgages are unknown to the laws of Louisiana. There is no redemption of property sold under mortgage. All tacit mortgages have been abolished since 1870. In making sales or giving a mortgage upon his property, it is not necessary for the husband to obtain the signature of the wife. A mortgage resulting from recording a judgment can not have that effect until after adjournment of Court. [Act 1888.] Lien for labor on logs granted by act of 1890. Privilege on crops to be recorded (act of 1890). The vendor of an agricultural product of the United States has a five days' privilege for unpaid purchase price in preference to all others. All other privileges can be enforced against the article upon which it bears while in the hands of the person who created them, but can not be enforced against third holders of the property.

Notaries Public. Must give bond for \$10,000, in New Orleans, and number limited to 100; bond to be renewed every five years. [Acts of 1890.]

Railroads not permitted to charge more than three cents per mile. [Act of 1890.]

Notes and Bills of Exchange. The laws of the State of Louisiana, in relation to commercial paper, as well as most other commercial matters, are taken from the English common law. Smith's Commercial Law, Biles, Edwards and Parsons are the standard authors upon the subject. Commercial paper may be defined to be the written evidence of a debt transferable by delivery. It may be a bill of exchange or promissory note. The promissory note is a written promise to pay a certain sum of money, at a future time, unconditionally. It is not necessary to state the place of payment, or that it be made payable at a bank, or at any fixed place of payment in the State. If no place is named, it will be presumed to be payable at the place where it is made. If none is stated, then at the domicile of the maker. Three days' grace are allowed upon bills of exchange and notes, or other obligations made negotiable by law, but no grace is allowed on sight bills or orders for money on demand. All negotiable instruments are due and payable on the day following the third day of grace, when the third is a Sunday or legal holiday, and if this day be a Sunday or legal holiday, then such instruments are due and payable on the following day, not a Sunday or legal holiday. Whenever a promissory note is indorsed for the benefit of the maker thereof, if caused by the maker to be discounted in any bank in operation within the State, or if the maker obtain any money in consideration of said note from any person, the indorser shall be bound to the holders of the note as if it had been discounted or negotiated for his own use or benefit. Bills and notes, or other obligations for the payment of money, to be evidence of a debt, must express the whole sum in writing. The cents may be in figures. Days of public rest are January 1, January 8, February 22, March 4 (in New Orleans), July 4, December 25, Sundays, Good Friday and Shrove Tuesday (in New Orleans). An administrator appointed by another State Court can not sue here upon a claim due the deceased. In all cases the succession must be regularly open in this State, and the administrator qualified here before he can take any legal proceedings. The heirs of a deceased creditor may, however,

bring the suit in a court of this State. The death of the drawer of a check before payment does not revoke its payment. [Gordon & Gornilla, case 34, 604.]

Suits. Actions are commenced by petition setting forth cause of action, etc., and signed by plaintiff or his attorney. Plaintiff must, in Orleans, if required, give resident security for costs of court; in other parishes, must make a deposit to cover costs. Full names and residences of parties should be supplied. All testimony must be taken contradictorily after notification to the opposite party, but may be taken out of Court and reduced to writing by consent of all parties. Administrators, etc., may sell bonds and stocks at private sale upon order of Court to that effect. In case of minors family meeting necessary. (Acts of 1890.)

Taxes. The Collector is required to give ten days' public notice of his readiness to receive taxes, and after ten days from the expiration of such notice, must give written notice to each resident delinquent; non-resident delinquents are notified by publication in parish paper. If taxes on movable property are not paid within ten days more, Collector may seize and sell property, after twenty days' advertisement. Taxes on real estate can not be enforced until the expiration of the year for which they are levied and after legal notices to delinquents and advertisement. Lands sold for taxes are redeemable within one year, by the owner, his agent or heirs, or any creditor, on payment of the purchase money, with 20 per cent. interest and costs, and all subsequent taxes paid. Lands sold for taxes due prior to 1880 are not redeemable. State taxes are six mills on the dollar, and parish taxes not exceeding ten mills; City of New Orleans tax 2.02 per cent. Notice must be given of sale for taxes, which shall not be by publication (constitutional provision).

Succession. Donations can not exceed two-thirds if the donor leaves at his death a legitimate child, one-half if he leaves two, and one-third if he leaves three or a greater number. The wife has no dower right, but is entitled to one-half of the community estate, after payment of debts. If she is left penniless she may claim the marital fourth.

Warehouses. A certificate from Clerk of Court necessary before transaction of business by public warehouseman. Transfer of warehouse receipts transfers property which it represents. [Act 1888.]

Wills. There are four different kinds of wills, viz.: Theolographic, nuncupative by public act, nuncupative by private act, and mystic (or sealed) will.

MAINE.

BANKING LAW.

(Revised by RICHARD WEBB, Attorney at Law, Portland.)

Discount and savings banks created only by special charter; subject to examination by the Bank Examiner, who may, at any time, call for statements and make examination; may institute proceedings to wind up; makes an annual report to the Governor and Council. Capital stock of discount banks must be paid, one-half in six months and one-half in twelve months from the date of charter; they can not go into operation until one-half of the stock has been paid in; can not circulate bills in excess of fifty per cent of their capital stock without one dollar in specie for every three dollars of such excess; nor, at any time, more than capital stock paid in and specie on hand; must keep five per cent of the capital stock in specie reserve; must not owe more than twice the amount of the capital stock, aside from deposits. Directors incurring illegal debts or illegally impairing capital are liable therefor. Stockholders are liable for an additional sum equal to the amount of stock. Officers are, president, directors, and cashier. Report to Examiners when required; tax of 1/2 per cent on capital if issuing bills. No bills to issue by persons or foreign banks.

Savings banks have president, vice-president, treasurer and assistant treasurer, when trustees so determine, and not less than five trustees, not more than two of whom shall be directors in any one National bank; they shall not act as guardians or administrators, nor shall any banking company; no loan to be made to any officer or his firm; pay dividends from profits not exceeding 2 1/2 per cent. semi-annually; may have deposits scaled when insolvent without fault of officers. Deposits by married women and minors are their property and may be recovered by them. Special provisions as to investments. Report annually to Examiner; tax of 3/4 per cent. on franchises. No constitutional provisions relating to either.

COMMERCIAL LAW.

Acknowledgment. Deeds of real estate must be sealed; witness usual but not necessary; recorded to be good against third parties without notice; to be recorded must be acknowledged by one grantor; within the State before a Justice of the Peace, Notary Public, or woman appointed therefor; in other States and Territories, before a Magistrate, Notary Public, Justice of the Peace or Commissioner of Deeds for this State; in foreign countries before a Notary Public, United States Minister or Consul; clerk's certificate of capacity of official out of the State is recommended.

Actions. At law begun by writ, under common law practice, but containing declaration. Service on individuals, 14 days (before Municipal and Justice's Court, 7 days) and on corporations 30 days, before return term. Returnable in any county where either party lives in this State; if neither party lives here, in any county where personal property is attached; but in all trustee process, in some county where one of the trustees resides; if property attached and no one to serve on in State, or if service fails or is defective without fault, new service ordered by Court or Justice in vacation before or after entry. No affidavits required for commencement of suit. Names (with full first names) and residence of all parties (including

partners) should be furnished or corporate name of incorporated company. To attach real estate, all original notes, contracts, etc., or copies, and itemized statements of accounts and claims, or balance stated and agreed upon, is required. Suits in equity are begun by bill of complaint, filed with clerk and subpoena issued by him or inserted in writ of attachment and served by copy of bill and writ.

Arrest. (See *Executions.*) In actions *ex delicto*, on mesne process and execution, as of course without affidavit or order; in actions *ex contractu*, on mesne process upon affidavit of the creditor, his agent or attorney, that he has reason to believe and does believe that the debtor is about to depart and reside beyond the limits of the State and carry with him means of his own more than is necessary for his immediate support, and that at least ten dollars is due on the claim; on execution, only after supplementary proceedings and fraud proven, but if contract judgment or action existing April 16, 1887, arrest on execution. Debtors arrested on mesne process or execution may discharge; give up property not exempt from attachment and be discharged from arrest by Justices' Courts, or may give bond and disclose accordingly to its terms (See *Insolvent Law*). No arrest in actions *ex contractu* for less than ten dollars, and none in civil actions of married women.

Assignments. (See *Insolvent Law*.)

Attachment. All property not exempt attachable on mesne process as of course without affidavit; security for costs only if creditor is non-resident; lien by attachments in the order in which they are made for thirty days after judgment, (extended where execution is delayed, appeal from taxation of costs is taken, or decision of law court certified down in vacation) within which time levy may be made. Personal property may be appraised and sold on mesne process to avoid expense, depreciation or loss, on request of either party and proceeds held by officer in lieu of the property; foreign attachment (garnishment) known as trustee process, attaches property held by, or debt due from trustee, unless (1) due on negotiable paper, (2) money collected on process by officer, (3) in hands of public officer, (4) due on contingency, (5) trustee liable to execution, (6) \$20, for personal labor of the debtor, wife or minor child within 1 month in action not for necessaries. Equitable trustee process where property cannot be reached by process at law; not exempt and for property conveyed in fraud of creditors, and property secreted so that it is not replevable.

Courts. Terms and Civil Jurisdiction. Supreme Judicial Court: 2 or 3 terms a year in each county; unlimited jurisdiction except as specified below; full jurisdiction in equity; appellate jurisdiction in banc on questions of law, from trial terms and Superior Courts. Superior Courts: in Cumberland county except equity, divorce, real actions, extraordinary legal remedies and some others, exclusive jurisdiction to \$500, concurrent jurisdiction above that sum; sits first Tuesday of every month except June, July and August. Kennebec county; exclusive jurisdiction, with exceptions to \$500 concurrent in habeas corpus and divorce; sits first Tuesday of April, September and December at Augusta; second Tuesday of June and November at Waterville. Courts of Probate: usual jurisdiction of probate matters; full jurisdiction in insolvency (q. v.). Municipal Courts and Trial Justices: exclusive jurisdiction of forcible entry and detainer and in other cases up to \$20; in some places concurrent jurisdiction of larger amounts; appeals to Superior Court where established, and elsewhere to Supreme Judicial Court.

Estates of Deceased Partners. Survivor to exhibit partnership property to executor or administrator of deceased who shall include it in inventory, have appraisal made, but carry out only the interest of deceased. Survivor may give bond; administer partnership estate, pay debts and expenses and pay over the share of deceased partner to his legal representative. If he does not, then the administrator must give such bond and administer and may use survivors name to collect the debts. Assets real and personal of the partnership may be sold, commissioners on exorbitant claims appointed as in estates of individuals; and if partnership estate insufficient to pay debts it may be represented insolvent and administered as other insolvent estates, but this shall bar the recovery of any balance from survivor or estate of a deceased partner. Upon death of person so giving bond before completing administration, an administrator of the partnership may be appointed to complete it.

Estates of Deceased Persons. Administered in Probate Court with appeals to the Supreme Judicial Court as Supreme Court of Probate. Administrator or executor to give bond unless executor excused in will; have inventory and appraisal; pay debts and charges and distribute balance of personal property according to law or will of the testator; sales of personal property made upon license; sales of real estate when necessary to pay debts and charges and in some other cases, upon license, filing bond and taking oath. Allowance to widow and minor children, made by court from personal estate. Action brought against in one year after notice of appointment to continue at plaintiff's expense and barred by tender within year; if brought after without statute notice or written demand, to continue one term and barred by tender pending continuance, defendant recovering costs. Limitation of two years after notice of appointment. Non-resident executor or administrator must appoint attorney. Time of demand or notice extended for absent creditor if further assets, but prior payments not disturbed thereby. Examination of anyone suspected of embezzlement. No administration granted after twenty years; commissioners may be appointed to determine claims deemed exorbitant in like manner as in insolvent estates. Appeal to Supreme Judicial Court as Supreme Court of Probate. Real estate descends (1) to children and issue of deceased children by right of representation; (2) if no children, to all descendants if in same degree equally, otherwise by right of representation; (3) if no issue, to father and mother in equal shares; (4) if no such issue or father, one half to mother and one half to brothers and sisters, and the children or grand-children of those deceased by right of representation; (5) if no issue, father, brother, or sister, to mother to exclusion of issue of brothers and sisters; (6) if no such issue, father, mother, brother, or sister, to next of kin in equal degree, those claiming through nearer ancestor preferred; (7) when minor dies unmarried, to other children of same parent, and issue of those deceased equally if of equal degree, otherwise by right of representation; (8) if no kindred, to husband or wife; (9) lacking that it escheats to the State.

Personal estate after payment of amount allowed to widow by court or by law, debts, funeral, and administration charges, distributed as real estate, except that widow takes one-third; if no issue one-half, if no kindred the whole.

Insolvent. Estates are adjudged insolvent on representation: After paying expenses of funeral and administration, are appropriated to (1) allowance granted by court to widow, widower or children, (2) expenses of last sickness, (3) preference by United States laws, (4) taxes and debts to State, (5) all other debts. If estate will not pay more than such expenses and the first four classes, no representation of insolvency is necessary. Probate Court appoints two commissioners to determine claims, which are to be presented within six months from appointment; time may be extended, not exceeding eighteen months in all, or three months more where commissioner dies. Claims presented in writing with affidavit of claimant or person cognizant thereof stating security and credit upon best knowledge and belief; interest allowed from death of testator unless otherwise provided by contract; security valued by commissioners, and if either party dissatisfied, by three disinterested persons selected by Judge; if creditor refuses security at appraisal it goes to estate and so much is added to his claim. Suits pending may be prosecuted to determine amount. Contingent claims proved and funds reserved. Appeal from commissioners by claimant, administrator or creditor by written notice in probate office within twenty days; creditor or heir appealing files bond for costs; appellant, other than claimant, gives him notice of appeal within thirty days; appeal by any person determined by suit for money had and received brought by claimant within three months after Commissioners report, annexing or filing schedules of claim; claimants omitting to give notice of prosecuting appeal by accident or mistake may have leave to do so on petition to Supreme Judicial Court within two years after report; where claim allowed and claimant has omitted to bring suit upon appeal of any other person by accident or mistake, he may have leave on like petition; but in neither case after four years from granting administration nor is any decree of distribution disturbed thereby. Appealed claims are deemed contingent. Judgment for debt against administrator certified to Probate Court, execution issues for costs which may be allowed and paid from estate unless administrator appealed without reasonable cause. Claims not presented or disallowed, barred; but former may be presented against further assets, and latter allowed in set off only to amount of counter claims by estate. Executor or administrator must settle account within six months after report. After thirty days from report, Judge may order distribution. Account for payments made pursuant thereto allowed without.

Executions. After twenty-four hours from rendition of judgment, returnable in three months, renewable within ten years after; capias or arrest authorized (See *Arrest and Married Women*); no stay except by order of Court for cause and one year against absent defendants unless bond filed; levied on real estate by appraisal and extent, also on real estate and interests in the same and franchises by sale; money and, by consent, circulating notes applied directly.

Exemptions. Homesteads, \$500, when duly registered; debtor's apparel, necessary furniture for family, \$100; bed and bedding for each two persons; family portraits, bibles, school books in use; State statutes; library, \$150; regular pew; cook stove and iron warming stoves; charcoal, twelve cords of wood, five tons anthracite coal, fifty bushels bituminous coal, \$10 worth of lumber, wood, or bark; produce of farms till harvested; barrel of flour, thirty bushels of corn and grain, potatoes for family one-half acre of flax and manufactures therefrom for family; tools of trade; sewing machine \$100; pair working cattle, or pair mules, or one or two horses, either, \$300; hay to keep them; harness for each horse and mule, \$20; horse sled or ox sled, \$20; domestic fowl, \$50; two swine, one cow and one heifer, if no oxen, horse or mule, two cows; ten sheep, their wool, their lambs until one year old; hay to keep them and cattle; plow, cart, truck or express wagon, harrow, yoke with bows, ring and staple, two chains, mowing machine; fishing boat of two tons; debtor may elect if he has more than is exempt.

Insolvent Law applies to residents where debt is not less than \$300; is voluntary, and where one or more creditors holding one-fourth of provable claims, involuntary; applies also to absconding debtors within six months; assignees elected subject to approval of court, who dispose of property, pay expenses and divide assets, and may be authorized to carry on business; provisions for discharge upon petition and final oath taken, within two years after commencement of proceedings and not after; discharge may be opposed for (1) swearing falsely, (2) concealing property, books or papers, (3) directly or indirectly preferring within four months, having reasonable cause to believe himself insolvent or contemplating insolvency, (4) causing effect to be attached, (5) destroying, altering, mutilating or falsifying any books, documents, papers, writings or securities, making or being privy to false or fraudulent entry to defraud creditors, or give preference, (7) removing or allowing to be removed, with like intent, any property, (8) making fraudulent payment, transfer, conveyance, or assignment of property, (9) knowing false debt proved and not disclosing it to assignee within thirty days, (10) being a merchant or trader and not keeping proper books of account. Discharge, if granted, avoided for same causes within two years by creditor not knowing in season to oppose. Discharge null and void if procured by money or promise of future preference. One insolvent second time requires assent of majority in numbers and value of creditors, and a third time, assent of three-fourths, for discharge. Composition upon consent of majority of creditors for over \$50, and three-fourths of the value of all debts for a percentage; creditor receiving more from debtor for assent, or assigning for more to one who will consent forfeits to creditor suing all he receives; debts created by fraud, embezzlement, defalcation of public officer, or while acting in any fiduciary capacity, may be proved and receive dividends but are not discharged; on provable claims due foreign creditor or to be performed out of State, no arrest after discharge. Fraudulent conveyances void; penalties for misconduct of insolvent assignee, and messenger; proceedings are in Probate Court with direct appeals in certain cases to the Supreme Judicial Court, and in all others supervision by bill in equity; debtor owing less than \$300, may make a general disclosure and be discharged from arrest. Applies to partnership and corporations, except those of public nature; no discharge of corporation, or of liability, officers or stock-

holders; preferences of all kinds within four months, and older mortgages preferring, not recorded, three months. avoided by election of assignee and statute assignment to him. No assignment law; assignments for creditor valid, as at common law, unless avoided by proceedings in insolvency.

Interest six per cent. or rate agreed in writing; judgments, same rate; accounts and debts not on time bear interest from demand. Special rate in time notes does not continue after maturity, unless so provided; nor after judgment in any case; no usury laws.

Judgments. At law; by general order at end of term on all cases where verdict or default, unless stayed by proceedings for new trial, or continued for judgment by plaintiff; in equity, only by decree signed by Justice. No lien except by virtue of attachment on mesne process (*q. v.*) and where specially provided by law.

Limitation of Actions. Six years; debt on unsealed contract or liability (except judgments); actions upon judgments out of State of Court not of record; for arrears of rent; assumpsit or case on contract or liability, express or implied; waste; trespass *qu. cl. and d. b. a.*; case, except slander and libel. Four years; against Sheriff. Two years; assault and battery, false imprisonment, slander, libel and penalty. One year; escape, *scire facias* and on recognition, eighteen months; stolen bonds and coupons, except by owner, twenty years; witnessed notes, bank bills, specialties, real action, other judgments and all other personal actions. Suit begun when writ is made. Incapacity of plaintiff, death of either party within thirty days before or after expiration of time, fraudulent concealment of action, absence from State when cause accrues on residence out of the State and absence afterwards, extends time. Actions barred where both parties lived, are barred here. New promise must be in writing or part payment. Against executors and administrators, two years and one-half unless further assets or claim not matured. Against heirs or devisees, one year after claim accrued; remedy in equity, if not prosecuted within time limited and if without culpable neglect.

Married Women have same rights and liabilities as to property, contracts, and all suits as men, except husband must join in conveyance of real estate conveyed directly by him to his wife; her property not liable for his debts; not his liable for her prior debts nor for others made on her credit. She may sue and be sued as if sole. Dower of third; one-half if no issue and estate solvent. Husband has same in wife's solvent estate (*See Arrest*).

Mortgages. Of real estate: executed and acknowledged as deeds; convey fee with condition of defeasance; usually secure payment of notes. Foreclosed without possession by serving or advertising notice, or by possession obtained peaceably or by consent or by suit. Redemption in three years from notice or possession; may be limited to not less than one year in mortgage; power of sale mortgages, used, recognized by courts, but no statute. Chattel mortgages to be good against third parties recorded in Town Clerk's office where mortgagor resides; or, if all parties non-resident, where property is situated; or possession taken and retained, no refiling required. Notes for over \$30 for chattels sold and title retained must contain agreement therefor, and be recorded as chattel mortgages; such mortgages and notes foreclosed by notice to mortgagor or assignee of record, or, if out of State, by publication; redemption in sixty days.

Notes and Bills. Three days of grace on bills, notes, drafts and orders on time or sight and not on demand; two days if the third is Sunday, Fast, Thanksgiving, January 1st, February 22d, May 30th, July 4th, or Christmas; four days if the second and third are each on one of these days, or if the second is Sunday and is one of the last four, or if the third day is the first Monday in September. On notes payable at fixed place on demand at or after a time certain, no recovery unless demand proved there before suit; usual demand and notice to charge indorser; notarial protest proves it; but one indorsing note at inception before payee does is a maker. Waiver of demand and notice, acceptance of bill, draft or order must be in writing and signed. Recovery from indorser without suing maker. Rate of damages on protested bills of \$100 or more payable in this country one to nine per cent. according to place. Negotiable paper presumed to be taken in payment of debt or liability for which it is given.

Taxes. State taxes assessed by Board of State Assessors to towns on State valuation which is revised annually; county taxes are granted by the legislature on the estimate of county commissioners and by them apportioned to towns. State county and municipal taxes are assessed together on polls and real property situated in town, and personal property owned by inhabitants, not exempt upon valuation by the assessors who commit them to collector by warrant; may be collected by arrest, distress or suit. On real estate they are a lien; proceedings to enforce by sale begin upon non-payment for nine months; non-resident owners have eighteen months from sale to redeem by paying tax, costs and twenty-five per cent interest from twelve months after commitment; residents, two years after collector's return with twenty per cent interest after return. Land of non-residents must be sold after eighteen and not more than twenty months from commitment; sale is of smallest fractional part of interest to one who will pay taxes, interest and costs therefor. State tax assessed by Board of State Assessors on gross receipts of railroads and express companies, and on value of telegraph and telephone lines; collected by suit. No tax to corporations on capital stock, except banks (*q. v.*) State taxes at 2½ per cent. collateral inheritances above \$500.

Special exceptions and exemptions from assessment, and special provisions for taxing personal property situated here but owned out of the State.

MARYLAND.

BANKING LAW.

(Revised by FIELDER C. SLINGLUFF, Att'y at Law, Baltimore.)

Prior to the Act of 1870, the State banks were incorporated by special act of the legislature. The Act of 1870 Chap. 206, is a

general act, under which all banks must be incorporated. It provides that all banks incorporated under its provisions, if located in Baltimore city, shall have a capital stock of not less than \$300,000, and, if anywhere else in the State, of not less than \$50,000. It further provides: (1) Stockholders must own stock four months before they can vote it for any purpose; (2) Directors must be stockholders and citizens of the State; (3) no one can be director in two banks at the same time; (4) statements must be made annually by the directors to the stockholders; (5) statements of the condition of the bank must be made to the Treasurer of the State on the 1st of January and July in each year. Said statements must be published in the papers of the city or county where the bank is, and must be verified by the affidavit of the president or cashier; (6) the issue of notes is not to exceed the capital stock paid in, and no note of less than \$5 to be issued, nor of any amount intermediate between \$5 and \$10; (7) the debts are at no time to exceed the capital stock, and the directors are liable for such excess; (8) if dividends are declared which impair the capital stock, the directors are liable; (9) no director can be paid for his services; (10) a bank can hold land for its immediate accommodation in its business, and such as may come in payment of debts due, but must get rid of such land as it acquires for debts, in three years; (11) no loans must be made to the State or the United States to exceed \$50,000; (12) banks must not pay out any funds or money other than the legal currency of the United States, notes issued by the authority of their charter, and notes issued by other banking incorporations received at their par value by the banks so paying them out; (13) all State banks, whether incorporated under the provisions of this act or not, must pay annually to the State twenty cents on every \$100 of the issue of notes then in actual circulation, which such bank may have lawfully issued, to be applied to the augmentation of the free school fund of the State. There is no system of official examination, other than this statements made to the State Treasurer.

1886. Chap. 501, continues this act in force till January 1, 1905. There are no laws restricting Savings banks as to the class of bonds they may invest in.

COMMERCIAL LAW.

Acknowledgments of conveyances of any interest in real or leasehold property for above seven years, may be made within the State, and in the county or city in which the land, or any part of it lies, before a Notary Public, Justice of the Peace, a Judge of the Orphans' Court, a Judge of the Circuit Court of any county, or a Judge of the Superior Court, Court of Common Pleas or Circuit Court of Baltimore City. If within the State, but out of the county in which the estate conveyed lies, they may be made before a Judge of any Circuit Court for the circuit where the grantor may be, or before any Judge of the Orphans' Court for the city or county in which the grantor may be, Notary Public, or a Justice of the Peace; the official character of the Justice must be certified by the Clerk of the Circuit, County, or Superior Court (Baltimore City), under his official seal, or Judge of the Superior, Common Pleas or Circuit Court, if grantor be in Baltimore City. If without the State, they may be made before a Notary Public, a Judge of any Court of the United States, or of any State or Territory Court having a seal, or a Commissioner of Deeds for this State. The seal of the officer or court to be affixed to the certificate of acknowledgment in all cases. If acknowledged without the United States, the acknowledgment may be made before any Minister, Consul General, Vice or Consular Agent or Deputy, or a Notary Public, or a Commissioner to take acknowledgments for State of Maryland. [Act of 1882, Chap. 63.] Every deed conveying any interest in real estate, must be signed and sealed by the grantor, and attested by at least one witness. A scroll seal is sufficient. No words of inheritance are necessary to create an estate in fee simple, and no separate examination of a married woman is required.

Assignments and Insolvency. A debtor may be declared insolvent upon his own application or upon a petition filed by one or more creditors, the aggregate of whose debts amount to the sum of \$250—alleging some of the causes specified in the statute (1886, Ch. 298, Sec. 23). No preferences are allowed except to employes for wages contracted not more than three months anterior to deed or application in insolvency. A discharge releases the claims of all creditors living in the State, but does not affect the claims of non-resident creditors unless they are filed in the proceedings. Voluntary deeds of assignment for the benefit of creditors, providing for an equal distribution of the assets among the creditors, are valid, but deeds with preferences (except to employes as already stated), or exacting releases, are void in all cases if the debtor is proceeded against in insolvency within four months after the recording of the deed; otherwise valid.

Attachments for debt [See Act 1890, Chap. 549] or for unliquidated damages, sounding either in contracts or torts, can be obtained in all cases when the defendant is a non-resident or has absconded, affidavit being first made by the plaintiff to the correctness of his claim and the fact that the defendant is a non-resident or has absconded. They may be also obtained in connection with an original process when the creditor or some one in his behalf shall give bond in double the amount of the debt, with sureties to be approved by the Clerk, and make affidavit before the Clerk of the Court where the suit is brought that the defendant is *bona fide* indebted to the plaintiff in the sum claimed, and that the plaintiff knows or has good reason to believe that the debtor is about to abscond from the State, or that the defendant has assigned, disposed of or concealed, or is about to assign, dispose of or conceal, his property, or some portion thereof, with intent to defraud his creditors, or that the defendant fraudulently contracted the debt or incurred the obligation; or that the defendant has removed or is about to remove his property, or some portion thereof, out of this State, with intent to defraud creditors. A claimant may have the attached property released by filing a bond in double the amount of the appraisement. Any kind of property or credits belonging to the defendant, in the plaintiff's own hands or in the hands of any one else, and shares of stock in a corporation, may be attached. Credits not due may be attached, but wages, hire or salary not due can not be attached, and the sum of one hundred dollars of such wages, hire or salary, shall always be exempt from attachment. Imprisonment for debt is abolished.

Defendant may be sued wherever he does business. [Acts 1886, Ch. 456.]

In addition to attachments against non-residents or absconding debtors for debt (*i.e.*, a liquidated sum), as heretofore, attachments may now be issued against such debtors in cases arising from contracts when the damages are unliquidated, and in actions for wrongs independent of contract, but in such cases no attachments can be issued until a declaration is filed setting out specially and in detail the breach of the contract complained of or the tort actually committed, verified by the affidavit of the plaintiff or some one in his behalf, and until a bond shall be filed similar to the bond required in attachments for fraud. (*See Attachments, ante.*) [Acts of 1888, Ch. 507.]

Bills of Lading. warehouse, elevator and storage receipts, and any vouchers acknowledging the possession of goods as in storage are made negotiable, unless otherwise provided, in the same sense as bills of exchange and promissory notes, and are made conclusive evidence in favor of *bona fide* holder for value, that goods therein described were actually received. (See Act 1876, ch. 262.) Penalties are provided for acts and frauds which impair the value of these securities.

Collaterals. The conversion by any banker, broker, merchant, attorney or agent of collaterals is made a misdemeanor. (See Code, Art. 27, Sec. 93.)

Contracts. The normal condition of all persons is one in which they are capable of making any contract. The fourth and seventeenth sections of the Statute of Frauds are in force in Maryland. A citizen can not make a contract with an alien enemy during the continuance of hostilities; but aliens, not enemies, may contract and hold real property as fully as citizens. The later cases decide contracts of infants to be voidable and not void; and they are capable of ratification by infants on arrival at age of twenty-one. The contracts of infants for necessities are binding upon them. The contract of a lunatic is voidable and not void. The rules of the common law govern the contracts of married women for the most part. A wife can convey her real property, provided her husband joins in the deed. The statute provides that a married woman shall hold the fruits of her personal labor to her sole and separate use to an unlimited amount, with power as a *femme sole* to invest, re-invest, sell, and dispose of the same. All gambling contracts and contracts made on Sunday are void.

Corporations are organized under the authority of the General Incorporation Law. See Code, Art. 23 and ch. 134, Acts 1890, as to classes of corporations that may be formed under general law, and provisions concerning formation of same. Corporations shall not be created by special act, except for municipal purposes, and except where there is no provision in the general law providing for creation of corporation proposed to be formed. In such cases application must be made to the legislature.

Courts. Terms and Jurisdiction. The Circuit Courts in the counties have jurisdiction at common law in cases involving more than \$50, and equity in all cases involving more than \$20. They hold from two to four regular terms in each county at which they have a jury; there are, however, intermediate terms fixed by the rules, to which process may be made returnable. The Circuit Court and Circuit Court No. 2 (a new Court created by the last legislature) of Baltimore City, have exclusive equity jurisdiction in the city. The Superior Court, the Court of Common Pleas and Baltimore City Court have concurrent common law jurisdiction in cases involving more than \$100. The Court of Common Pleas has exclusive jurisdiction in insolvency, and the Criminal Court in criminal cases. The Orphans' Courts in Baltimore City and in the counties have probate jurisdiction. Justice's jurisdiction, \$100. The Common Law Courts have three terms in the year, and rule days every month in the year, to which process may be returnable. The Equity Courts have six terms in the year, beginning the first Mondays of January, March, May, July, September and November.

Days of Grace. Three days after maturity allowed on all bills and notes, when not expressly excluded, except those payable on demand and at sight, whether the paper is negotiable or not.

Depositions. When the Courts are satisfied, by affidavit or otherwise, that there are material and competent witnesses residing without the State, they will direct that a commission be issued to take the testimony of such witnesses. The Commissioners are selected by the Court, and must qualify before some person authorized to administer an oath in the State where they reside. The depositions, duly certified by the Commissioners, shall be admitted as evidence at the trial of the cause, subject to the same objections and exceptions as the same testimony would be if the witness had been personally present in court and there examined. Parties have the right to be present when the testimony is taken under the commission, and must receive reasonable notice of the time and place. Examination is restricted to the parties and interrogatories and cross-interrogatories annexed to the commission.

Executions may issue and judgments may be renewed or revived by *scire facias* at any time within twelve years from date of judgment or from the expiration of any stay, and may be therein levied on any property of the defendant. In the Circuit Courts for the counties there is a stay until the first Thursday of the term succeeding the rendition of the judgment, provided the judgment is obtained at the second term after the defendant is summoned. There is no stay upon judgments rendered in the courts of Baltimore City or by Justices of the Peace in the city or counties, but execution may issue forthwith. The defendant may stay the execution by superseding with sureties for six months. Copy of docket entries of judgment when recorded in another county makes the judgment a lien there. [Act 1890, Ch. 314.]

Exemptions. No homestead law. Wearing apparel, books and tools (not kept for sale) and \$100 of property in addition, are exempt from execution, except on judgments for breach of promise to marry and seduction, not applicable to any but actual *bona fide* residents of this State. Equitable interests in personal property can not be sold under execution, but may be levied upon, and the lien thus acquired may be enforced in equity. Choses in action may be attached.

Interest. The legal rate of interest is six per cent. per annum. Judgments bear interest from their date. A person proved guilty of usury forfeits the excess over the real sum or value of the goods

and chattels lent, and legal interest thereon. Since 1876, where the whole debt, including the usury, is paid, the usurious interest can not be recovered back.

Judgments are liens for twelve years from date of rendition on any interest of the defendant in real or leasehold property within the county where rendered. They can be transferred from one county to another by sending an execution to the Sheriff and a copy of the docket entries to the Clerk. The lien commences in the county to which execution is issued from the date of the entry of the docket entries by the Clerk. Judgments are not liens on personal property until execution has issued and the writ is in the hands of the Sheriff. [See Act 1890, Ch. 558, as to examination of judgment debtors.]

Limitations of Suits. Accounts and notes are barred after three years, sealed instruments and judgments after twelve years. A verbal promise or acknowledgment will revive a debt barred by the statute.

Married Women. The property of a married woman, real or personal, acquired by her at any time since 1860, remains her separate estate and is not liable for the debts of her husband. Wife must convey real or personal property by joint deed with the husband, but may devise the same by will as if she were *sole*. Where husband is found a lunatic by inquisition she may convey property as if she were *femme sole*. She may sue in her own name. She may be sued on any instrument executed jointly with her husband subsequent to April 1st, 1872, and on any contract made in the prosecution of business under a license to trade, or on a covenant as lessee. A married woman can not enter into articles of copartnership, and contracts made with a copartnership in which there is a married woman are not binding upon the parties. Husband is not now liable for debts of wife *dum sola*, but for such debts husband and wife can be sued and judgment obtained against the wife. Widow is entitled to dower in real estate and one-third of the personal estate if there are children; one-half if none.

The property of wife is protected from debts of husband, and transfers of property from husband to wife shall be valid, unless creditors of husband assert their claims within three years after such transfer.—[Act 1892, Ch. 267.]

Mortgages are executed, acknowledged and recorded same as deeds, and are not valid against creditors unless recorded within six months. There must be an affidavit made by the mortgagee or his agent at any time before recording, that the consideration is true and *bona fide*. If made by agent, he must, in addition, make oath that he is the agent of the mortgagee. A like affidavit is required to chattel mortgages, and absolute bills of sale, both of which must be recorded within twenty days. The lien of a mortgage may, by ceasing to pay interest or any installment of the principal for twenty years, be barred. They may be foreclosed at any time after the debt becomes due and before the lien is barred.

Notes and Bills of Exchange. Commercial paper is such paper as is negotiable by the law merchant. It is not payable at any particular place, unless so specified on its face. The maker of a promissory note or the acceptor of a bill of exchange will be held liable to an innocent holder who takes the same before maturity for value and in good faith, even though the note was made or the bill accepted without consideration. A bill of exchange, draft or promissory note, purporting to be payable at sight or at presentation, is for all purposes deemed payable on demand without grace. A seal to a promissory note makes it a single bill and therefore not negotiable. Legal holidays are: Christmas, New Year's day, February 22, Good Friday, July 4, Decoration day, May 30, all days of general and congressional elections throughout the State and any day of public thanksgiving or humiliation and prayer proclaimed by the Governor or legislature. Bills and notes maturing on such day are payable on day preceding, unless that be Sunday, when they are payable on the Saturday preceding. Notice of dishonor to be given on day after the holiday, unless that be Sunday, when notice to be given on succeeding Monday. When holidays fall on Sunday, paper maturing on following Monday, payable on preceding Saturday. Notice of dishonor to be given on following Tuesday.

By Act 1892, Ch. 462, it shall be lawful for banks and bankers in the city of Baltimore to close their doors for business at 12 o'clock noon on each and every Saturday in the year, and every Saturday in the year, after 12 o'clock noon, shall be a legal half-holiday, so far as regards the presenting for payment or acceptance, and the protesting and giving notice of the dishonor of bills of exchange and other negotiable paper, and for these purposes shall be considered as the first day of the week, or Sunday, and all negotiable paper shall be deemed to be presentable on the secular day next succeeding.

Protest is usually made by Notary Public. Notary must keep register of protests. A protest of Notary Public is *prima facie* evidence of non-acceptance or non-payment, and of the presentment of said note for payment, or of said bill for acceptance or payment, at the time and in the manner stated in the protest, and the protest shall also be *prima facie* evidence that such notice has been sent or delivered in the manner therein stated. (*See Notes and Bills of Exchange.*)

Suits. Actions are at common law. Pleadings have been simplified, but forms of actions remain as at common law. Service of writs must be made by the return day, which, in the counties, is the first day of each term, and in Baltimore City of each rule day.

The plaintiff in any action at law (except ejectment and replevin) may claim a mandamus directing the defendant to do any act that he may be bound to do, or forbidding him to do any act it may be his duty to refrain from doing, either by contract or otherwise. [Acts 1888, Ch. 456.]

The defendant in any action at law in which, if judgment was obtained, he would be entitled to relief in equity against such judgment, may plead the facts which entitle him to such equitable relief by way of defense in such action at law. The plaintiff in his replication may, in reply to such plea, allege such facts as avoid the plea on equitable grounds and so on. [Acts 1888, Ch. 547.]

A court shall not refuse to issue a mandamus or injunction on the mere ground that the plaintiff has a remedy at law, unless the party against whom the writ is asked shall show to the Court's satisfaction that he has the property from which the damages can be made or shall give a bond to pay such damages. [Acts 1888, Ch. 260.]

Original from

Taxes. The County Commissioners of the several counties of the State, and the Mayor and City Council of Baltimore City are directed to levy a tax annually upon real and personal property situated within the State, and no person who is not assessed to the sum of \$100 shall be required to pay any tax. In addition to the above tax the State Legislature, with the concurrence of the Governor, regulates the State tax for the next two years following the meeting of Legislature, which convenes every two years. The property of religious, charitable, benevolent and educational institutions, and cemetery companies is exempt from taxation. In Baltimore City the Mayor and City Council have authority to exempt the plant of manufacturing industries from taxation, for the purpose of encouragement of industrial enterprises. Collectors may sell property to compel payment of overdue taxes, upon giving due notice of sale, and complying with other requisites of statute, and any person interested in property may redeem within one year and a day from date, by tendering to collector the whole amount received by collector from sale, with interest to date of tender, and in default of redemption, title to property rests in purchaser. Taxes are considered in arrears on first day of January next succeeding the date of their levy, and bear interest from that date.

MASSACHUSETTS.

BANKING LAW.

(Revised by WM. E. L. DILLAWAY and H. M. BURTON, Attorneys at Law, Boston.)

In this State, safe deposit, loan and trust companies are incorporated under special act of the legislature, and are governed by the provisions contained in the Acts of 1888, Ch. 413, and amendments thereto. Under the general law ten or more persons and their successors may form a corporation for the purpose of carrying on the business of banking. The General Court may, by special act, annul or dissolve any such corporation; but its dissolution shall not impair any remedy against the same for liability previously incurred. The capital stock of each bank shall not be less than \$100,000 nor more than \$1,000,000. The stock shall be paid in gold or silver money, one-half before the bank goes into operation, and the remainder within one year thereafter. Before commencing business the president and directors shall make a certificate specifying the corporate name, which shall be different from any previously organized in the Commonwealth; the location of said bank; the amount and number of shares of its capital stock; name and residence, and number of shares of each stockholder, and the time when it is to go into operation; a copy of which certificate shall be filed with the Secretary of the Commonwealth. No part of the capital stock can be sold or transferred, until the whole amount thereof is paid up. No person can hold more than half the capital stock, exclusive of that held as security. In addition to the capital stock to which a bank is entitled, the Commonwealth may subscribe thereto an amount not exceeding 50 per cent. of its authorized capital, when provision is made therefor by law. Said Commonwealth shall be entitled to its proportionate share of profits and dividends. Upon the vote of three-fourths of its stockholders, a bank may increase its capital stock to an amount not exceeding \$1,000,000. No bank shall have less than seven or more than twelve directors. The cashier is required to give bond in not less than \$20,000, with two or more sureties, before entering upon his duties. The debts of a bank shall at no time exceed twice the amount of capital stock paid in exclusive of deposits not bearing interest, nor shall there be due the bank more than double the amount of capital stock paid in. Every bank is required to keep a reserve in lawful money of the United States, equal to 15 per cent. of its liability for circulation and deposits. The circulating notes held by the bank shall at all times be secured in full by public stocks, which shall never be less in amount than \$50,000. The property and effects of every bank shall be first applied to the redemption of its notes in circulation. Stockholders of a bank are liable in their individual capacity for the payment of all the circulating notes remaining unpaid in proportion to the stock they respectively hold when it stops payment.

Every bank doing business in Boston, except in the suburban districts which form a part of Boston, shall on every Monday morning transmit to the Secretary of the Commonwealth a statement, under oath of the president or cashier, of the amount of capital stock, assets and liabilities of the bank, including amount in the Boston Clearing House, which statement shall be based upon the condition of the bank on the day of the week next preceding said Monday. Monthly reports are required from every bank in the State, not included in those above mentioned, to be made to the Secretary of the Commonwealth. These reports are published in one or more of the daily papers in Boston on the Wednesday after same have been received. Every bank is required to make an annual report to the Secretary of the Commonwealth of the condition of its affairs at 7 o'clock on any Saturday afternoon which the Governor may direct, within fifteen days from the time designated, certified by the cashier and a majority of the directors. Any committee appointed by the General Court may examine into the affairs of any bank, and shall have free access to its books and vaults. Commissioners of Savings Banks shall visit once in every year, and as much oftener as they may deem expedient, all such banks, and examine all their affairs, and make such inquiries as may be necessary to ascertain their condition, and make a report of such investigation to the General Court.

Savings Banks in Massachusetts can invest 70 per cent. of their deposits in first mortgages on real estate in this Commonwealth to an amount not exceeding 60 per cent. of valuation of such real estate; in public funds of the United States, of any of New England States, or States of New York, Pennsylvania, Ohio, Michigan, Indiana, Illinois, Wisconsin, Iowa, and District of Columbia; and in the authorized bonds for municipal purposes and refunding bonds issued for other than municipal purposes, of any city of the aforesaid States which has more than 30,000 inhabitants, and whose net indebtedness does not exceed 5 per cent. of the valuation of taxable property, and in bonds or notes of any county or town in

Massachusetts, whose net indebtedness does not exceed 5 per cent. of valuation, or of any county or town of the State of Maine, New Hampshire, Vermont, Rhode Island or Connecticut whose net indebtedness does not exceed 3 per cent. of valuation; in first mortgage bonds of any railroad company incorporated under authority of New England States, and whose road is located in whole or in part in the same, and has earned and paid regular dividends for two years next preceding such investment, on all its issue of capital stock, notwithstanding the road of such company may be leased to some other railroad company; or in first mortgage bonds guaranteed by such railroad company; or in bonds and notes of any railroad company incorporated under laws of Massachusetts, whose road is located wholly or in part therein, and is unincumbered by mortgage, and has paid a dividend of 5 per cent. per annum for two years next preceding such investment; but Street Railroad Company shall not be considered Railroad Company within meaning of this statute. They may invest in the notes of any citizen of this State, with a pledge as collateral of any of aforesaid securities, or secured by shares of capital stock of any of aforesaid New England railroads incorporated and located as above, and has earned and paid regular dividends of 5 per cent. on its capital stock for five years next preceding date of such note, or secured by stock of any bank incorporated under laws of this State, or by stock of any trust company, or safe deposit and trust company, incorporated under laws of and doing business in this State, or by stock of any banking association incorporated under authority of United States and located in New England States. They may invest not more than 35 per cent. of deposits and income in stocks of any bank incorporated under authority of Massachusetts or any trust company, or safe deposit and trust company, incorporated under laws of and doing business in Massachusetts, or any banking association located in New England and incorporated under laws of the United States, provided it shall not hold more than 3 per cent. of capital stock of any one of such banks; also, in bonds and notes of incorporated districts in Massachusetts; in bonds and notes of Fitchburg Railroad Company; in bonds and notes of Boston & Lowell Railroad; in bonds of New York & New England Railroad issued to pay for certain terminal bonds in Boston; in certain first mortgage bonds of the Concord & Montreal Railroad; in first mortgage bonds of the Maine Central Railroad; in notes of depositors of the bank secured by their deposit and book. They may invest in bonds or personal securities with at least two sureties, if principal and sureties are all citizens of Massachusetts, and reside therein. Five per cent. of deposits, and not exceeding \$200,000, may be invested in erecting a building for transaction of its business. They may hold real estate acquired by foreclosure or upon judgments for debts due them, but it must be sold within five years after title vests in the corporation.

COMMERCIAL LAW.

Acknowledgments and Deeds. Acknowledgments may be made before any Justice of the Peace or Notary Public in the State; or before any Justice of the Peace, Magistrate, Notary Public, or Commissioner appointed for that purpose by the Governor of this State within the United States or in any foreign country; or before a Minister or any Consular officer of the United States in any foreign country. Where Acknowledgments are taken out of the State by a Justice of the Peace, there should be appended a certificate of his appointment and authority made by Secretary of State or Clerk of a Court of Record. In Deeds where there are more than one grantor, the Acknowledgment of one of them is sufficient. Deeds must be under seal, a scroll being insufficient. No subscribing witness is necessary. Release of dower must be explicitly stated in deed, wife's joining in deed merely being insufficient.

Assignments and Insolvency. The insolvent law is in many respects similar to the United States bankrupt law, repealed in 1878, and has no jurisdiction over debts contracted outside the State unless the same are proved in the insolvency proceedings. But an assignment to trustee to divide property among creditors can not be avoided by attaching creditor and only by assignee in insolvency. Any person owing \$100 or more may obtain relief; and any creditor may apply within ninety days after commission of act of insolvency for seizure and distribution of estate. Assignee is chosen by majority in value, and may be required to give bond. Proof of debts must be substantially according to statute form, mere affidavit of indebtedness not allowable. Original notes and bills of exchange must be annexed to proof. The oath may be made before Justice of the Peace, Notary Public or Commissioner. Assent of majority in number and value filed within six months from date of assignment necessary for discharge if assets do not pay fifty per cent. or more, otherwise discharge granted without assent. Attachments made more than four months prior to first publication of notice of issuing warrant in case of voluntary proceedings and more than four months prior to first publication of notice of filing petition in involuntary proceedings are not dissolved by assignment in insolvency. The insolvent may file an offer of composition with creditors, and will be confirmed if assented to by a majority in number and value of creditors, if it be for payment of not less than fifty per cent., or if less than fifty per cent., of three-fourths in number and value.

Attachment. All real estate, goods and chattels not exempt, may be taken in attachment on the original writ and held as security for judgment, except that lands and tenements can not be attached in suits involving less than \$20. No bond is required to make an attachment. Shares of stock in corporations organized under laws of this State, or of United States, may be attached by service on certain officers of the corporation. Debtor may dissolve attachment by furnishing bond with sureties to pay judgment obtained or value of property attached determined by appraisement. Upon affidavit by the creditor or some one in his behalf, that he has reason to believe that the debtor intends to leave the State and has property not exempt from attachment which he does not intend to apply to the payment of plaintiff's claim, the debtor may be arrested and held to bail. Debtor against whom judgment is rendered for over \$20 may be subjected to sworn examination touching his property, and if he refuses to deliver up such property (not being exempt from attachment), an order for arrest will issue and

he can then apply and be examined to take the poor debtor's oath. Proceedings in insolvency dissolve attachments made within four months of first publication.

Corporations. There is a general law under which corporations may be organized to carry on any lawful business, except for transactions in real estate, banking and insurance. The business of such corporations is conducted by a President, not less than three Directors, Clerk, and Treasurer. Before commencing business the entire capital must be paid in, in cash or in property taken at a fair valuation satisfactory to Commissioner of Corporations. A certificate must be filed each year with the Secretary of State showing the condition of the company. Salaried officers shall not vote as proxy or attorney at any corporation meeting.

Foreign corporations doing business in Massachusetts must file annual statements with the Commissioner of Corporations showing their condition and appointing the Commissioner of Corporations its attorney, upon whom service of process may be made.

Courts. Terms and Jurisdiction. Trial Justices may severally hold Courts within the counties for which they are appointed, and shall have original jurisdiction, exclusive of the Superior Court; and of all actions of contract, tort or replevin, where the debt or damages demanded or value of the property alleged to be detained does not exceed \$100. Police and District Courts may in their respective counties exercise the same powers, shall have the same jurisdiction, civil and criminal, and shall perform the same duties and be subject to the same liabilities as Trial Justices. The Supreme Judicial Court has original and concurrent jurisdiction with the Superior Court, in actions for recovery of debt to the amount of \$4,000 or over in Suffolk county (Boston) and \$1,000 or over in the other counties of the State. Superior Court has jurisdiction where the amount claimed exceeds \$20. Municipal Court of the city of Boston has jurisdiction concurrently with the Superior Court in the county of Suffolk, in actions where the debt does not exceed \$1,000, provided one or more of the defendants resides or has his usual place of business in the city of Boston. The other Municipal, District, Police Courts and Trial Justices throughout the State have, as a rule, concurrent jurisdiction up to \$300.

Depositions. The deposition of a witness without the State may be taken under a commission issued to a person in any other State or country by the court in which the case is pending, or it may be taken by a Commissioner appointed by the Governor for that purpose. Every deposition taken under a commission must be upon written interrogatories, to be exhibited to the adverse party, and cross-interrogatories may be filed by him if neither party to the action shall attend at the taking of the deposition or be represented by attorney.

Executions can not issue until twenty-four hours after judgment rendered, and an original execution must be issued within one year after plaintiff is entitled to sue out the same. Executions all courts are returnable within sixty days. There is no stay of execution except by special order of court.

Exemptions. Homestead, if recorded, to the value of \$800. Necessary wearing apparel of family, certain specified articles of household furniture, and \$300 worth in addition thereto; library, \$50; tools and implements, \$100; stock, \$100; boats and fishing tackle, etc., \$100; one cow, six sheep, one swine and two tons of hay, sewing machine, necessary wearing apparel, pew in church, etc. Materials and stock designed and necessary for carrying on his trade and intended to be used or wrought therein, not exceeding \$100 in value.

Interest. Legal rate, six per cent., which is allowed on judgments. There are no usury laws, except on loans less than \$1,000, and any rate may be reserved or contracted for in writing, and rate reserved in note is payable after maturity of note as before; loans less than \$1,000, shall be dischargeable upon payment or tender of the sum actually borrowed and interest at rate of 18 per cent. per annum, together with a sum for actual expenses of making the loan, not exceeding \$5; all payments in excess of said rate shall be applied to discharge of the principal.

Judgments may be entered within four days of default, but do not constitute a lien upon realty or personalty of debtor not attached on the original writ. Are not outlawed for twenty years.

Limitation of Suits. Contracts or liabilities, express or implied and not under seal, six years; real actions, those upon an attested note, if suit is brought by original payee or his executor or administrator, and personal actions on contracts not limited, twenty years. Revivor: Part payment by the party sought to be charged or new promise to pay in writing. Absence from the State prevents the running of the statute of limitations as to a defendant until he comes into the State. The statute does not run against infants, married women during coverture, insane persons, those imprisoned and those absent from the State.

Married Women. The real and personal estate of a married woman, acquired at any time, remains her sole and separate property, not subject to the control of her husband, nor liable for his debts. Married women may carry on trade or business, make contracts, sue and be sued, in all matters relating to their separate property, and such contracts are not binding upon the husband. Wife can not deprive her husband of more than half of her personal property by will, nor can she impair his interest in her real estate as tenant by the curtesy without his written consent, or of her real estate not exceeding \$5,000 in value, and a life estate in one-half of the balance, where no issue survives her. Widow takes dower as at common law, in one-third of her husband's real estate, and if there be no issue and husband dies intestate, she takes his real estate, in fee, to an amount not exceeding \$5,000 in value, and a life estate in one-half of the balance. If husband dies intestate and leaves no kindred, she takes the whole of his real estate in fee. Wife carrying on business on own account must record certificate with City or Town Clerk; neglect to do this renders her property so employed liable for husband's debts, and renders husband liable for her debts thus contracted.

Mortgages. Mortgages now in common use contain a provision authorizing a sale of premises in case of a breach of any of the conditions. Power of Sale Mortgages may be foreclosed by a sale in accordance with the provisions of the power contained in the mortgage and an affidavit that the mortgagee has complied with the provisions of the mortgage shall be recorded in the Registry of

Deeds within thirty days after the sale. Mortgages may also be foreclosed by entry and peaceable possession for three years, which entry must be certified by two witnesses. Possession may also be obtained by action at law.

Chattel mortgages must be recorded in the city or town where the mortgagor resides, and also in the city or town in which he principally transacts his business. Mortgages must be recorded within fifteen days of the date thereof, otherwise it is not valid as to third parties, unless mortgagee is in possession.

Notes and Bills of Exchange. Commercial paper means negotiable paper, such as bills of exchange, promissory notes and bank checks, given in due course of business for the payment of money. It need not be payable at a bank or any fixed place. Three days of grace are allowed on all notes and drafts except those payable on demand. The drawee of a bill or draft requiring acceptance has till two o'clock P. M. on the next business day after presentment to decide whether he will accept. Bills of exchange, drafts, promissory notes and contracts, due and payable, or to be executed, on Sunday or any Fast day or Thanksgiving Day appointed or recommended by the Governor or by the President, first Monday of September (Labor's Holiday), or Christmas Day, twenty-second day of February, the thirtieth day of May, the fourth day of July, or on the following day when either of the four days last mentioned occurs on Sunday, shall be payable or performable upon the business day next preceding said days; and in case of non-payment or non-fulfillment may be noted and protested upon such preceding day; but the holder or holders of such obligations need not give notice of the dishonor, non-payment or non-fulfillment thereof until the business day next following the days above specified. To charge indorsers of a promissory note payable on demand, a demand made at the expiration of sixty days from the date thereof, without grace, or at any time within that term is necessary to fix liability of indorser, and shall be deemed to be made within a reasonable time. No presentment of such note to the promisor and demand of payment will charge the indorser, unless made on or before the last day of said term of sixty days. Orders and drafts for money payable within this State, in which no time of payment is expressed, shall be deemed to be payable on demand. All persons becoming parties to promissory notes payable on time by a signature in blank on the back thereof, shall be entitled to notice of the non-payment thereof the same as indorsers. Checks drawn on a bank may be paid within ten days after death of drawer.

Suits. Civil actions in general, except those concerning land (if one of the parties lives in the State), must be brought in the county where one of them lives or has his usual place of business. Where all parties are non-resident, action may be brought in any county. Attachment of property owned by defendants residing out of State sufficient to give jurisdiction in suit after notice published by order of court. Such notice to be given within one year from the entry of the suit. Persons commorant in State may also be arrested on mesne process and held to bail.

Taxes are assessed as of the first day of May in each year, and on real estate are a lien for two years after they are committed to the Collector; but the Collector may sell real estate for taxes after two years have elapsed, unless the estate has been alienated prior to the giving of the notice of such sale. If not paid on demand, Collector may sell after advertisement. Owner, his heirs or assigns, may redeem within two years by paying or tendering to the Collector when he exercises the power of taking, or to the purchaser of the sum paid by him, with ten per cent. interest and all necessary intervening charges, and person having title may redeem in two years after notice if property is taxed to a person unknown, or to tenant or occupant not owner, or wrong person or mortgagee of record. The purchaser under a tax sale, if resident in the city or town where the estate is, must record his residence or place of business. If he resides elsewhere he must appoint an agent or attorney and record such appointment.

Wills. Any person of full age may make a will disposing of his estate. The will must be signed by the testator and attested by three witnesses in presence of the testator. A married woman may make a will, but such will shall not deprive her husband of his tenancy by the curtesy in her real estate, or of a life estate in one-half thereof if they have had no issue born alive.

MICHIGAN.

BANKING LAW.

(Revised by JULIAN G. DICKINSON, Attorney at Law, Detroit.)

Act No. 205 of Public Acts, 1887, "to revise the laws authorizing the business of banking, and to establish a banking department for the supervision of such business," was submitted to the electors of this State at the last general election, in November, 1888, and was duly approved. It provides that any number of persons, not less than five, may associate to establish:

1. Offices of discount and deposit to be known as Commercial banks.
2. Offices of loan and deposit to be known as Savings banks.
3. Banks having departments for both said classes of business.

The aggregate amount of capital stock of any such bank shall not be less than \$100,000, except that in any city or village with a population of 1,500 the capital may be not less than \$15,000; in any city or village the population of which does not exceed five thousand inhabitants the capital may be not less than \$25,000, and in cities and villages with population not exceeding twenty thousand the capital may be not less than \$50,000. These provisions as to capital not to apply to banks heretofore organized and doing business.

Banks shall not take as security any lien upon any of its capital stock for any loan; the same security in kind and amount shall be required of stockholders and of persons not stockholders; shall not be the holder or purchaser of any portion of its capital stock,

unless such purchase is necessary to prevent loss upon a debt previously contracted in good faith, and stock so purchased shall in no case be held longer than six months if it can be sold for what it cost, and must be sold for the best price obtainable within one year.

Persons Associating to execute articles of incorporation, specifying:

1. Name assumed, which must not be similar to name of any other State bank.
2. County, city, or village where located, and to conduct business.
3. Nature of its business relative to class aforesaid.
4. Amount of capital stock which shall be in shares of \$100 each.
5. Names and residences of stockholders; number of shares held by each.
6. Period of organization, not to exceed thirty years.

Such articles to be acknowledged before an officer of this State authorized to take acknowledgments, and to be executed in triplicate, one of which shall be recorded in the County Clerk's office of the county where bank is to be located, one filed with the Commissioner of the Banking Department, and one with the Secretary of State. Copies certified by either of said officers admissible in evidence for or against such bank in all Courts. Articles may be amended in any manner at any time, not inconsistent with the law, by vote of stockholders representing two-thirds of capital stock.

Such bank shall thereupon become a body corporate, and have powers to adopt and use a corporate seal; to have succession for the specified period of years; to make contracts; to sue and be sued; to elect and appoint directors who shall choose a president and vice-president, and appoint a cashier or treasurer and other officers, define their duties, require bonds, dismiss such officers at pleasure and elect others in their places, prescribe by-laws regulating the transfer of stock, the election of directors and other officers, regulate the special meetings of stockholders, transfer of its property, the conduct of its business, and the exercise and enjoyment of its privileges.

Such bank shall exercise by its Board of Directors or duly authorized officers or agents, subject to law, all such powers as are necessary to carry on business of banking, discounting and negotiating promissory notes and other commercial paper and evidences of debt; receiving deposits; buying and selling exchange, coin and bullion, and loaning money on personal and real security, but they shall not take or receive more than the rate of interest allowed by law in advance on its loans and discounts. This restriction not to authorize any transaction for less than fifty cents.

Fifty per cent. at least of the capital stock shall be paid in before such bank is authorized to commence business, and the remainder shall be paid in by monthly installments of at least ten per cent. of the whole capital stock, payable at the end of each succeeding month from the time it shall be authorized to commence business; such payments shall be certified to the Commissioner under oath by the President, Cashier or Treasurer.

On failure to pay any installment when required, the directors shall sell the stock of delinquent stockholder at public sale as they deem best, on twenty days' notice, served personally or by mail at his last known address. If no bidder will pay the amount due with costs, the amount paid in on the stock shall be forfeited to the bank and such stock shall be sold as directors may order within six months thereafter; and if not sold it may be canceled and deducted from the capital. If sold before cancellation any surplus realized shall be returned to original stockholder, his heirs or assigns. If such cancellation reduces the capital stock below the minimum, such capital shall be increased within thirty days from the date thereof to required amount by subscriptions. When authorized as aforesaid to commence business, the Commissioner of Banking Department shall examine into the condition of such bank, as to whether it has complied with all the provisions of the Act required to entitle it to engage in the banking business, and if so entitled the Commissioner shall, within thirty days after receiving notice of the payments of the fifty per cent. of its capital, give to such bank a certificate under his hand and official seal, that such bank is authorized to commence business, etc.; he may withhold such certificate by consent of Attorney General whenever he has reason to believe that such organization is for any other than legitimate business under this Act. The certificate shall be published for six weeks in the city, village, or county where the bank is located, for the first publication within ten days after the receipt of such certificate.

The shares of stock deemed personal property and transferable on the books of the bank as its by-laws may direct; but no transfer shall be valid so long as registered holder of stock shall be liable to the bank as principal debtor, surety or otherwise, for any debt due and unpaid, and in such case no dividends, interest, or profits shall be paid on such stock, but the same shall be retained and applied to discharge of such liabilities. Shares are subject to attachment and sale on execution against stockholder.

The capital may be reduced or increased at any time by two-thirds vote of the stockholders. A certificate thereof, executed by its officers, including a majority of the directors to be filed as required for articles of incorporation; but no increase shall be valid unless it is subscribed and paid in; and no reduction shall be to a less amount than the required capital, or be valid or warrant cancellation of stock, or diminish liability of stockholders, until approved by said Commissioner, based on his finding that security of existing creditors will not be impaired.

Banks may purchase, hold and convey real estate for the following purposes, only: Such as is necessary for convenient transaction of its business, including with its offices other apartments to rent which shall not exceed fifty per cent. of its capital; such real estate conveyed to it for debts to the bank; and such as it shall purchase at sale under judgments or decrees upon its securities; but the bank at such sale shall not bid a larger amount than to satisfy its debt; no real estate so acquired in satisfaction of debts, or at a sale upon its judgments or decrees, shall be held longer than five years, and within thirty days thereafter must be sold at private or public sale.

Directors. Bank to be managed by a Board of not less than five, to be elected by the stockholders; hold office for one year and until successors are chosen and qualified; first Board to be chosen before authorized to commence business; thereafter at annual meetings of stockholders to be held on second Tuesday in December of each year; at such meetings each share entitled to one vote for each director; but no stockholder who is indebted to the bank on debt past due shall be entitled to vote; may vote by proxy, but no officer, clerk, teller or bookkeeper of the bank shall

act as proxy. Vacancy in the Board shall be filled by the Board until next election. Directors must own and hold not less than ten (10) shares of the stock (in banks with \$15,000 capital five shares), and shall take and subscribe specified oath. The board declares dividends, so much of net profits as they deem expedient. Before any dividend is declared, not less than ten per cent. of net profits for preceding half year shall be carried to surplus fund until such fund amounts to twenty per cent. of its capital.

The Act defines certain criminal offenses; prescribes penalties, fines, and imprisonment on conviction for certain specified frauds of any officers, or directors, or clerks, etc. Requires keeping list of stockholders' names and filing copies of same second Monday of April each year in said County Clerk's and Commissioner's offices. Authorizes any State bank re-organized under laws of United States as a National bank to retain and hold the assets acquired during existence of such State bank subject to its liabilities.

National Banks, duly dissolved, may organize under the Act with the approval of said Commissioner, and with authority of its stockholders, which must be set forth in the articles; and the assets of such National bank be vested in such State bank subject to the unliquidated liabilities of such National bank. Violations of the said Act by the Board of Directors constitutes ground for forfeiture of the charter, etc., of such bank, and it is made the duty of the Commissioner to institute proceedings therefor.

Reports of every State bank four times a year shall be made under oath to the Commissioner, according to forms which he shall prescribe and furnish, to show resources, assets, and liabilities of any past day's business. Such reports to be published in newspapers in the respective localities of any such bank; special reports may be required whenever deemed necessary; reports of dividends and amount carried to surplus to be made within ten days after such dividends are declared.

Commercial Banks not to lend to exceed fifty per cent. of their capital on real estate security, and then only by resolution and two-thirds vote of the directors, except to secure certain debts. Interest may be allowed on accounts or certificates of deposit, deposits payable on demand and without notice, except otherwise provided by contract. Such banks shall keep on hand at least fifteen per cent. of deposits; in cities of over 100,000 inhabitants twenty per cent., one-half in lawful money, the other half in funds payable on demand deposited in designated approved banks. If any such bank gets below the required reserve it must stop increase of liabilities and Commissioner may notify to make good its reserve.

Savings Banks. Same powers as Commercial banks as to receiving deposits. All deposits of such banks shall be paid to depositors, when required, at such time or times, with such interest and under such regulations as the Board of Directors from time to time prescribes; shall keep on hand fifteen per cent. of its total deposits, one-third of which shall be in money in its vaults, and the balance of said reserve on deposit, payable on demand, with approved National or State banks, or invested in U. S. bonds; three-fifths of the remainder shall be invested by the directors in bonds of U. S. or of this or any other State of the U. S. (provided any such State has not in ten years repudiated its debt or failed to pay same or the interest), or in the public debt or bonds of any city, county, township, village, or school district of any State of the U. S. which shall be duly authorized by their legislature; also on negotiable notes secured by such bonds, or on mortgages on unincumbered real estate worth double amount loaned; the remainder in notes, etc., with collateral security of personal property worth ten per cent. more than the loan and interest; or may be deposited in any National bank or Trust Company in cities in this or any other State approved by the said Commissioner; and a portion of the remainder, not exceeding the capital and additional liability of stockholders, may be invested in negotiable paper, approved by Board of Directors. Its deposits in any one bank not to exceed ten per cent. of its total funds. If reserve falls below required per cent. it must be restored and maintained; the Commissioner shall require it on thirty days' notice, and on default, shall proceed to wind up the bank. Pass-books shall be issued to depositors in savings department, containing rules, etc. [See Act No. 10, Public Acts, 1891.]

Banks combining Commercial and Savings Banks shall keep separate books of account for each class, to be governed respectively by the provisions of this Act applicable to each class; shall not issue any bill, or note, or certificate to circulate as money, nor issue post bills. All investments and reserves relating to savings to be kept separate from other business, and with deposits be held solely for payment of savings depositors.

Existing State Banks are abridged, modified, or enlarged to conform to provisions of this Act. As to all future transactions, no renewal or extension of any existing loan or investment shall be made, unless necessary to avoid loss or embarrassment. All past due notes, etc., of existing banks, not secured by mortgage, remaining unpaid for six months, shall be charged off to the profit and loss account.

The "State Banking Department" is established as a separate bureau in the State Department, to have charge of the execution of the laws relative to banks.

Commissioner of the Banking Department, chief officer, to be appointed by the Governor, by and with the advice and consent of the Senate; he to appoint or remove his deputy at pleasure, to perform his duties during his absence or inability. Every bank existing, or hereafter incorporated under State laws, is subject to said Commissioner's inspection and supervision; his duty to examine once in each year the cash, bills, securities, etc., of each bank, and may examine on oath any of the officers, agents, clerks, depositors, etc., of such bank. Any willful false swearing deemed perjury. He shall ascertain whether each bank transacts its business in the manner and place prescribed, and make annual report to the State Treasurer, which shall be published with Treasurer's report, giving summary of the condition of every bank, abstract of capital, debts and liabilities, means and resources, and amount of lawful money held, etc.; of banks closed, amount of their resources, etc., and amount paid to creditors.

Stockholders of every bank shall be individually liable, equally and ratably, and not one for another, for the benefit of depositors in said bank to the amount of par value of their stock, except persons holding stock as executors, administrators, guardians or

trustees, or as collateral security. All such shall not be personally liable, but trust and estate assets and funds shall be liable, and persons pledging stock shall be liable. Such liability may be enforced in suit at law or in equity by any bank in liquidation, or by any receiver, or other officer succeeding to the rights of such bank. All transfers of notes, securities or other property, and payments of money after acts of insolvency, or in contemplation thereof, with a view to prevent application of assets, as prescribed, or to the preference of one creditor over another, shall be held null and void.

Legal Process against banks to be served on the President, Cashier or Treasurer, in the county where bank is located, or where plaintiff resides, or by leaving attested copy of process at banking-house, during banking hours, with Teller, Clerk, or any officer of the bank.

Total Liabilities of any bank, person, firm (including liabilities of the members of such firm), or corporation for money advanced shall at no time exceed one tenth part of the capital and surplus of such bank, but discount of bills of exchange and commercial paper by actual owner not considered as borrowed money; these provisions not to apply to real estate loans, or other authorized collateral securities. By two-thirds vote of the Directors it may be increased not to exceed one-fifth. Any bank may go into liquidation and be closed by a vote of its stockholders owning two-thirds of its capital. Any bank refusing to pay deposits as agreed, or becoming insolvent, may be wound up by the Commissioner. The provisions of this Act govern all existing State banks, and such banks must file with the Commissioner a certificate, executed by the officers of each bank, conforming to requirements relative to articles of incorporation, or reorganize under this Act. Banks may issue bills of exchange on foreign countries, payable with customary usance, at or within thirty days' sight. Such paper not to be used to circulate as money. The Legislature at any regular session may alter or amend this Act by two-thirds vote. Not necessary to submit amendments to popular vote.

Incorporated Trust, Deposit, and Security Companies may be organized under Act No. 108, Public Acts, 1889, as amended by Act No. 126, Pub. Acts, 1891.

Not less than seven persons may associate to form such companies; capital stock to be limited in the articles not less than \$300,000; not to exceed \$5,000,000, except that in cities of less than 100,000 inhabitants, the capital may be not less than \$150,000. Capital may be increased or decreased by two-thirds vote of the shares, within the limits above specified. Fifty per cent. cash of the capital to be paid in, and proof by affidavit to be made to the Commissioner of Banking Department before authorized to commence business,—balance of capital to be paid in within six months as Directors determine. Proceedings to sell at public auction stock not paid for, authorized on thirty days' notice—if cannot be sold, may be at private sale; otherwise forfeited and canceled.

Corporation to deposit with State Treasurer at least fifty per cent. of amount of capital stock in bonds, notes and mortgages on unincumbered real estate in the State worth at least double amount secured thereby; or public stocks and bonds of United States, or of any State of the United States that has not defaulted interest or principal of its obligations within ten years; or of any municipality of this State, or of any other State of the United States duly authorized to be issued, to remain and be held by the State Treasurer in trust as security to depositors and creditors of such company; the said Treasurer to pay over interest and income of such securities received by him, or may authorize such company to collect same for its own benefit.

Substantially such articles to be made and filed as required of banks.

Directors, not less than seven to manage its stock, property and affairs; same qualifications and term of office as bank directors, and same powers to make by-laws and elect presidents and other officers as directors under banking laws; incorporate name; have power to take, receive and hold, repay, reconvey, and dispose of any effects and property, real and personal, granted, committed, or conveyed to it upon any terms or trusts by any persons, married women, minors, corporations or by any court in this State; and to administer the duties of such trusts, and to act as agents or attorneys for the transaction of business, management of estates, collection of rents, interest, dividends, mortgages, bonds, bills, notes, and securities for moneys, and for issuing, negotiating, registering, transferring or consigning certificates of stock, bonds, or other obligations of any corporation, and to manage any sinking fund; to accept and execute offices of executor, administrator, trustee, receiver or assignee, and guardian, and it shall be lawful for any court to appoint such corporation to any such office of trustee, etc., and without other security than said deposit with said State Treasurer; to have power to loan money on real estate and collateral security and execute and issue its notes debentures payable at a future date, and to pledge mortgages on real estate and other securities as security therefor; but not to issue bills to circulate as money, or buy or sell bank exchange, or do general banking business; to have power to receive on deposit for safe keeping and storage, gold and silver plate, money, stocks security, and other valuables, and personal property, and to rent use of safes and receptacles on its premises; to become sureties for administrators, guardians, etc., where law requires sureties; to insure validity of title in real estate transfers, and to have a lien on deposits received as provided in this Act—such lien to be paid in two years, and if not so paid, or in case property received on deposit shall not be called for in two years from date of such lien accrued, such property may be sold at public auction, on like notices required for constables' sales on execution, apply proceeds to satisfaction of such lien and costs of sale, balance to be paid to person who deposited, or legal representative; to have power to lease, purchase, hold, and convey real estate as its corporate property as shall be necessary for its business, for its office and other apartments in same building, to rent as a source of income not to exceed fifty per cent. of its paid-up capital and surplus; it may accept real or personal estate in trust created pursuant to laws of State or of the United States, and such personal estate as is necessary to carry on its business, also all real or personal estate in the settlement of claims arising in its transactions, and to execute necessary receipts, certificates, and contracts. No such real estate shall be received as an asset longer than five years. Directors may invest its remaining

capital stock and other moneys it receives in trust, in bonds and mortgages of same character as those required to be deposited, or in such real or personal security as they deem proper. Shall keep on hand funds equal to twenty per cent. of its matured obligations and money due and payable, three-fourths of which may be deposited in any bank or trust company approved by Commissioner.

Legal process same as against banks.

Taxation same as against banks.

Shares personal property transferable same as in banks.

Stockholders individually liable ratably for corporate debts, contracts, and engagements to the amount of their stock at par in addition to amount invested in their shares, except trustees, etc., and persons holding stock as collateral, but trust estates shall be liable as to same extent testator or intestate *cestue qui trustant* would have been liable.

Reports required to be made four times each year to Commissioner, when he requests, under oath, showing resources and liabilities; also report in ten days after any dividend declared, of amount of dividend and net earnings in excess.

Inspection and supervision by Commissioner of State Banking Department same as banks; may be wound up in case of insolvency by appointment of Receiver on proper application of said Commissioner.

Provisions of this Act to govern all existing like corporations heretofore organized under Act 58, Session Laws of 1871, except as to amount of their capital stock; such existing corporations must file with said Commissioner a certificate in conformity with requirements of this Act as to articles of corporation.

Location of State Banks. All real estate same as other real estate in the city, village or township; and the residue of its *capital* and surplus shall be taxed as personal property—not at greater rate than money capital of individual citizens of city, etc.

Taxation of State and National Bank Stock. All shares in banks organized in this State under laws of this State and of the United States, at their cash value, deducting value of their real estate and mortgages; shares assessed to their owners in the town where the bank is located. Owned by a person residing within the county where the bank is located, shall be assessed in the town where he resides. *Bona fide* indebtedness may be set off against taxation of bank shares as well as other taxable property. In case of any tax on shares of any bank the County Treasurer shall call upon the cashier and demand payment, and it shall then be his duty to pay said tax and charge amount so paid against the shares of said stock. The cashier of every bank shall, on second Monday of April in each year, file with County Clerk statement of bank's real estate and mortgages (construed as real estate), cash value of same, list of stockholders, amount of their stock and their residences. If he wilfully refuses to file same, or makes false entry or statement in such list, he shall be guilty of a misdemeanor.

COMMERCIAL LAW.

Acknowledgments. Deeds and mortgages of lands or any interest therein, executed within this State, must be witnessed by two persons, and may be acknowledged before any Judge or Commissioner of a court of record, a Notary Public, or a Justice of the Peace. When the instrument is executed and acknowledged in any other State, Territory, or District of the United States, it may be done before any Judge of a court of record, whose certificate has seal of his court attached, a Notary Public under his official seal, or before any Commissioner appointed by the Governor of Michigan for that purpose. Unless taken before such Commissioner, a Judge of court of record, with seal of his court attached, or before a Notary Public who certifies under his official seal, such deed should have attached thereto a certificate of the Clerk or other proper certifying officer of a court of record of the county or district within which such acknowledgment is taken, under the seal of his office, or the certificate of the Secretary of the State or Territory where taken, under his seal of office, that the person whose name is subscribed to the certificate of acknowledgment was, at the date thereof, such officer as he is therein represented to be; that he believes the signature of such officer subscribed thereto to be genuine, and that the instrument is executed and acknowledged according to the laws of such State, Territory or District; and if such instrument be executed in any foreign country, it shall be executed in the presence of two witnesses, who shall subscribe their names to the same as such (Act No. 217, P. A. 1889), and may be acknowledged before any Notary Public therein, or before any Minister Plenipotentiary, Minister Extraordinary, Minister Resident, *Charge d'Affaires*, Commissioner, or Consul of the United States appointed to reside therein, such acknowledgment to be certified thereon by the officer under his hand, and if by a Notary, his seal of office shall be affixed to such certificate.

Assignments and Insolvency. Assignments for the benefit of creditors may be made by any debtor, without preference, and must be of all property of assignor not exempt from execution. Preferences by way of payments or security not in the assignment itself, though made at the same time with the assignment, will be sustained if received by creditors in good faith without notice of the fact of such assignment. *Whipple vs. Stebbins* (6-7 Mich. 507). Instruments in due form of mortgages, though comprising all debtors' property and giving preferences, can not be construed as assignments. *Warner vs. Littlefield* (89 Mich. 324). Assignee must give approved bond in double the amount of property assigned. The bond, the instrument of assignment, or a duplicate thereof, inventory of the assigned property, and a list of the creditors of the assignor, must be filed with the Clerk of the Circuit Court in the county where the assignor resides, or if he is not a resident of this State, then in the county where the assignee resides, and if neither are residents of this State, then in the county where the assigned property is principally located, within ten days. No assignment effectual unless such bond is so executed, filed and approved. Assignees filing bond after ten days not sufficient (83 Mich. 256). No attachment or execution levied upon assigned property after the assignment and before the expiration of the time for filing bond shall be valid; the assignment may be enforced in equity by suit of any creditor (46 Mich. 78) if assignee neglects to file approved bond; otherwise attachments and executions may be levied and

Original from

prosecuted effectually against assignor's estate (63 Mich. 716). The assignment must be acknowledged before an officer authorized to take acknowledgments. The bond shall be to the assignor for the joint and several use and benefit of himself and all creditors of such assignor, and shall be signed by the assignee and sufficient sureties, who shall justify before said Clerk or a Circuit Court Commissioner under oath. Fully protected assignment can not be set aside, but may be enforced in equity to accord with the requirement of the statute; to have the trusts carried out, and an equal distribution of the insolvent estate (83 Mich. 543). The statute relative to assignments, substantially a copy of Illinois Assignment Law of 1877 and decisions of the Supreme Court of Illinois, cited and approved in the case of Warner vs. Littlefield, *supra*. Notice shall be given by the assignee personally or by mail to each creditor; such notice shall require creditors to prove their claims within ninety days thereafter by affidavit, to be filed in said Clerk's office, or in default the assignee or receiver will proceed to distribute said estate, as soon as practicable thereafter, without reference to claims not proven. Before making a dividend, assignee shall serve, personally or by mail, on each creditor whose name appears on schedule filed, a complete list of all creditors. The Court may remove an assignee and appoint another in his stead on application of a majority in number and value of unsecured creditors. Assigned estate may be advertised and sold as a whole, unless majority of creditors request assignee to sell in parcels. If a bid of at least fifty per cent. is made sale must not be postponed. The assignee shall retain in his hands a sum to provide for all contested claims. Every proof must state the actual amount unpaid and owing, the actual consideration thereof, when contracted, when due or to become due, whether any and what payments have been made thereon, that the sum claimed is justly due from assignor to claimant, and that claimant has not nor has any other person for his use received any security or satisfaction whatever other than that by him set forth. Assignee shall cause appraisement to be made, by two competent appraisers under oath, of the property assigned to him, and file the same with the assignment. He shall also file a report of the condition of the estate and his doings under the assignment within three months thereafter in the said Clerk's office. In case of fraud in the assignment or in the execution of the trust, or failure to comply with the law, or failure to promptly and faithfully execute the trust, any person interested may file a bill in chancery for the enforcement of the trust and the appointment of a receiver. Assignee or receiver may contest any claim. Any creditor may request in writing the assignee or receiver to contest any claim, and such request will operate to stay payment of any dividend on such contested claim. If assignee or receiver refuse to make such contest, creditor may petition the Circuit Court for an order requiring it. The Circuit Court in Chancery of the proper county shall have supervisory power of all matters, questions, and disputes arising under such assignment. All debts for labor shall have preference over other creditors and over other liens, contracted prior to such labor.

Attachment. Process will issue on affidavit that there is a debt due upon express or implied contract, and showing either that debtor has absconded, or is about to abscond from the State; has assigned, removed, or concealed his property with intent to defraud or fraudulently contracted the debt; or is non-resident, or a foreign corporation. Attachment may now be sued out for debt to become due *in future* upon showing reasons satisfactory to Circuit Judge, but judgment cannot be rendered until debt is due.

Actions of Tort against non-residents may be commenced by attachment. An affidavit must be made describing the cause of action, which must have arisen in this State; or accrued where plaintiff was *bona fide* resident, and showing that defendant is carrying on business in the State, or owns property therein. Garnishee process may be issued from any court in which the original suit is commenced, and in such proceeding indebtedness to the principal defendant or property in hands of fraudulent transferee, or property of any kind subject to execution in garnishee's hands, may be reached for the satisfaction of any judgment recovered in the suit, but the wages of any householder, having a family, to the extent of \$25, are exempt from garnishment. Garnishees liable for property received under conveyance, or mortgages that are fraudulent as to creditors, and for the value of such property if disposed of by garnishees before or after garnishment.

Arrests of Debtors may be made in all personal actions other than those arising on contract, and in actions when the claim is for money collected by any public officer, or for misconduct or neglect in office or professional employment, or upon promise to marry; also under fraudulent debtors' act. In other actions than those aforesaid, when a creditor has commenced suit or obtained judgment he may apply for a warrant of arrest in such suits and on satisfactory evidence adduced to Judge of the Court where such suit or judgment is obtained of the debt, and establishing: *a*, that defendant is about to remove any of his property out of jurisdiction of such Court with intent to defraud his creditors; *b*, that he has property or rights in action which he fraudulently conceals, or stocks, money or evidence of debt which he unjustly refuses to apply in payment of the judgment or decree; *c*, that he has assigned, etc., or about to dispose of any of his property with intent to defraud his creditors; *d*, that he fraudulently contracted the debt in suit, a warrant of arrest shall issue. (Chap. 304, How. Stat. Mich.) No woman can be arrested on civil process.

Bills of Lading governed by the Common Law.

Contracts and Sales governed by the Common Law and "Statute of Frauds."

Corporations. Banks, mining and manufacturing, insurance—fire, marine and life—printing and publishing, mercantile, railroad, street railways, co-operative mutual benefit associations, co-operative and savings associations, religious societies, and municipal corporations, may be organized under general laws existing for the purpose.

Courts. Terms and Jurisdiction. Circuit Courts, holding from two to four terms a year in each county, have original jurisdiction in actions on contract where damages claimed amount to \$100 and upward, and exclusive jurisdiction in actions of tort where damages alleged exceed \$100, appellate jurisdiction from Justice's and Probate Courts. The Superior Court of Grand Rapids has original and concurrent jurisdiction with the Circuit Court in all

civil actions where the debt or damages exceed \$100, and in which the defendants, or one of them, shall have been served with process in the said city, and where the parties or one of them, reside in said city, which must appear in the process or pleadings. Justice's Courts have original jurisdiction when the debt does not exceed \$100, and concurrent jurisdiction with the Circuit Court when the debt does not exceed \$300, except in actions of tort, where the limit is \$100. There is a Probate Court in each county, with the usual powers. The Supreme Court of this State is the final appellate tribunal to which all appeals from the Circuit and Superior Courts of the State are taken, at law and in equity. United States Courts, "Sixth Circuit" and Eastern and Western District, Detroit, Bay City, Port Huron, Marquette, and Grand Rapids, Mich.

Deeds, Mortgages, and Contracts of real estate may be recorded within the county wherein the land is situate and if not so recorded are void as against subsequent purchasers or incumbrancers for a valuable consideration who have not received actual notice of such deed or mortgage. Foreclosure of mortgages by advertisement, or in Court of Chancery in county where property is situate. Certificate of County Treasurer or Auditor-General required by register of deed, and showing payment of State and county taxes for five years; in default thereof deeds and contracts not to be recorded. Chattel mortgages and bills of sale intended as security are absolutely void as against creditors or subsequent purchasers and mortgagees in good faith, without actual notice thereof, unless the mortgage or bill of sale, or a true copy thereof, be filed in the City or Township Clerk's office where the mortgagor resides, except when such mortgagor is non-resident of the State the instrument should be filed in City or Town Clerk's office where the property is located. Such mortgages made and withheld from the files are postponed to all indebtedness contracted after their date, and prior to date of filing such mortgages. Chattel mortgages are held to be securities for the debt—give no legal title until foreclosed by sale of the property, under power of sale, or by proceedings in equity; and such mortgages cease to be valid after one year unless within thirty days before the expiration of that time they are renewed by affidavit, showing the actual amount of mortgage debt; and the filing of this affidavit in such Clerk's office. By Act No. 18, Public Acts of 1889, the fraudulent removal, disposition, concealment and appropriation of mortgaged chattels constitutes a criminal offense, felony, or misdemeanor, according to the value of property so disposed of, and Act No. 17 makes it a felony to embezzle, remove, conceal, or dispose of leased chattels, or chattels held under contract of purchase, if their value amounts to \$25 or more; if under \$25 in value it is a misdemeanor.

Depositions may be taken conditionally to be read on the trial of any action pending in Courts of Record; application therefor may be made to any judge or Circuit Court Commissioner; affidavit showing nature of the action, etc., and that the witness is about to depart out of the State or is sick or infirm, the judge makes the order requiring adverse party to appear and attend examination before said judge at the time and place specified in the order, not to exceed twenty days; the judge may compel attendance of such witness by summons and enforce same by attachment; deposition to be returned to the Clerk of the Court where action is pending. Commission may issue to one or more competent persons to take deposition where witness resides out of the State on application to and order of the court or Circuit Court Commissioner upon interrogatories to be annexed thereto, which must be first settled before a justice or judge or Circuit Court Commissioner, unless agreed upon by parties or their attorneys; deposition to be taken and certified and returned with the commission as directed by the terms thereof. Depositions may be taken before any judge or commissioner upon notice given to adverse party where the witness resides more than thirty miles from the place of trial, either in or out of the State; affidavit to show the fact of the cause pending in any Court of Record or Justice's Court, and that the witness is material and lives more than thirty miles from the place of trial. Any Judge of Probate may issue commission to one or more persons to take depositions for use on the trial of any cause or proceeding before Probate Court where such witness is unable to attend by reason of age or bodily infirmity, or lives more than twenty miles from the place of trial; also when subscribing witness to a will filed for probate resides in the State but out of the county and is unable to attend, court may order deposition to be taken before Judge of Probate in county where witness resides.

Execution may issue at once in Circuit Courts, and within five days from rendition of judgment in Justice's Courts. Executions are returnable not less than twenty days, nor more than ninety days. Stay in Justice's Courts may be obtained by giving secured bond for payment of judgment, costs and interest, the time allowed being four months when the judgment does not exceed \$50, and six months when above that sum. Lands sold under execution may be redeemed by the debtor, his heirs, devisees, representatives or assigns, within one year, by payment of the purchase money with interest borne by the judgment, and may be redeemed by any judgment creditor having subsequent levy at any time within fifteen months from the date of such sale. Executions may issue at any time during the life of a judgment. Levy on real estate ceases to be any lien thereon at the expiration of five years.

Exemption. Homestead of any householder not exceeding forty acres, if in the country, or a house and lot in a city, town or village, the value in either case not to exceed \$1,500. Can not be alienated or incumbered without consent of the wife, where such relation exists, and can not be sold by probate license to pay debts, unless appraised to exceed \$1,500, and that amount is paid. Personalty exempt includes household furniture to amount of \$250, all sewing machines actually in use by individual or family, and any mortgage, etc., thereon must be secured by the wife; stock in trade, a team, or other things which may be necessary to carry on the pursuit of particular business, up to \$250, and partners of a firm are each entitled to such exemption, except for the purchase money thereof, and any sale of same after suit for the price shall be void, provided notice is filed in Clerk's office in the town where owner resides; library and school books not exceeding \$150; to a householder, ten sheep, two cows, five swine, provisions, fuel, spinning wheels, looms, stoves put up for use in dwelling, cemetery tombs and rights of burial, library and school books of every individual and family, family pictures,

one cow, provisions and fuel for comfortable subsistence for one month, household goods, furniture and utensils to the value of \$500 under any execution issued upon judgment for work and labor other than professional services, etc. No property exempt from sale for taxes, except such as is exempt by tax laws.

Interest. Six per cent. per annum is the legal rate of interest, but parties may contract in writing for a higher rate, not exceeding eight per cent. Interest payable semi-annually, annually, or at any other period falling due will bear interest computed to date of payment. The penalty for usury is a forfeiture of all interest on the obligation. A *bona fide* purchaser of negotiable paper is not affected by its being usurious, unless appearing on the paper. Judgments bear the same rate of interest as the instrument or contract upon which such judgment was founded.

Judgments are not liens until execution has been issued thereon and a levy made, and notice thereof recorded in the Register of Deeds' office of the County where such lands are located—executions issue to Sheriff of any County in the State. Judgments can be obtained in the Circuit Court in from forty-five to sixty days, depending on return day, time of service, term of court, etc. In Justice's Courts, if defendant makes default, judgment can be obtained on return day of process.

Limitations of Suits. Judgments of courts of record, foreign and domestic, exist ten years; of Justice's Courts, six years. On accounts and notes and other simple contracts actions can not be brought unless within six years from the time the action accrued, as also all civil actions for injuries to person or property. On sealed instruments and judgments, ten years. Revivor: Part payment, or promise in writing to pay. Absences from the State deducted from the period of limitation. Writs of Error from Supreme Court must be issued in one year after final judgment of court below, except said Supreme Court may grant further time, not to exceed six months. Questions of law only can be reviewed in law cases, but both questions of fact and law will be heard on appeals in equity cases. Proceedings to foreclose mortgages must be commenced within fifteen years after they become due and payable, or within fifteen years after last payment on mortgage; and as to mortgages fifteen years or more past due, within five years after the statute takes effect. [See Session Laws, 1879.] After such limitations have expired, mortgages may be discharged by application to the Circuit Court of the county where property is situated. For the recovery of real property—within five years where the claim arises against executor's, guardian's, or sheriff's deed; within five years where defendant claims under deed made by Auditor General of this State for taxes; within fifteen years in all other cases.

Married Women may make contracts in respect to their own property, and may have, hold and enjoy the same, and have the same rights and remedies as though they were unmarried. They may carry on business in their own name with their own property by consent of their husbands, but can not enter into partnership with husband and render herself jointly liable for firm contracts, 73 Mich. 146. But a married woman's contract to pay or to become liable for payment of the debt of her husband or other person is voidable by her. She may, however, charge her real or personal property to secure such indebtedness, by mortgage. A mortgage upon a homestead is void unless signed by the wife. Widow takes dower; the use during her natural life of one-third part of all the lands whereof her husband was seized of an estate of inheritance at any time during coverture, except non-residents of the State and except where she elects to take by will, giving her property as heir of dower. Mortgage indebtedness on the real estate for part of purchase price will be deducted from the value of such real estate in setting off and assigning dower. Conveyances to husband and wife of lands they have title to by entirety not liable to execution against both or either of them. Mechanic's lien for services and materials furnished upon lands belonging to, with her knowledge and consent, by contract with her husband, same as if contract made with her. Act No. 179, Pub. Acts, 1891.

Notes and Bills of Exchange. Negotiable promissory notes and bills of exchange, including acceptances, are "commercial paper." Not necessary that such paper be made payable at any bank or other place. The persons primarily liable to pay any such paper must seek the holder and pay to such holder when the paper is due. If there are indorsers or drawers entitled to notice, of course the holder is bound to present the paper to the makers and demand payment, if he wishes to hold such indorsers and drawers to their liability, and notice must be given them in their order promptly by due course of mail or by immediate personal service of notice of such presentment, demand for payment, and refusal to pay the paper. On all bills of exchange and negotiable notes and acceptances payable within this State, three days of grace are allowed, but not in case of any bill of exchange, note or draft payable on demand. All checks, bills of exchange or drafts drawn on any bank, are payable without grace, and it is not necessary to protest the same for non-acceptance; but such bills of exchange and checks should be presented within a reasonable time for payments to hold drawers or indorsers. In all other cases demand, protest for non-payment, and the sending notices of protest to the indorser, at his reputed place of business or residence, are necessary to bind the indorser. Parties other than payees to paper, being such before or at its inception, are held as joint makers, and not entitled to notice of non-payment. Damages on domestic bills protested, three to ten per cent.

Holidays to be observed in the acceptance and payment of bills of exchange and promissory notes, in the holding of courts, etc., are the following: 1st day of January (New Year's Day), 22d of February (Washington's Birthday), 4th of July, 25th of December (Christmas Day), 30th of May (Decoration Day), first Monday of September; every Saturday afternoon; and any day appointed by the Governor or the President of the United States as a day of thanksgiving, or a day of fasting and prayer. In case any of said holidays shall fall on Sunday, then the Monday following shall be considered as the said holiday. When the last day of grace falls on Sunday, or on any legal holiday or half holiday the next secular or business day is considered as the last day of grace.

Suits. Practice and proceedings of courts are in accordance with the rules of common law and courts of equity in England, with some statutory modifications. Actions survive as by the common law, and in addition thereto actions of replevin, trover, assault

and battery, false imprisonment; for goods taken and carried away; negligent injuries to the person; actions for damages to real or personal estate.

Taxes assessed against real estate become a debt against the persons assessed December 1st of each year, and such taxes a lien on the real estate, and all personal taxes shall be a lien on all personal property from first day of December of same year. City taxes are governed by charter.

MINNESOTA.

BANKING LAW.

(Revised by WARNER, RICHARDSON & LAWRENCE, Attorneys at Law, St. Paul.)

Constitution. Article 9, Sec. 13. The legislature may, by a two-thirds vote, pass a general banking law, with the following restrictions and requirements:

First. The legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payment to any person, association or corporation issuing bank notes of any description.

Second. The legislature shall provide by law for the registry of all bills or notes issued, or put in circulation as money, and shall require ample security in United States stock or State stocks for the redemption of the same in specie; and in case of a depreciation of said stocks, or any part thereof, to the amount of 10 per cent. or more on the dollar, the bank or banks owning said stocks shall be required to make up said deficiency by additional stocks.

Third. The stockholders in any corporation and joint association for banking purposes, issuing bank notes, shall be individually liable to an amount equal to double the amount of stock owned by them for all debts of such corporation or association; and such individual liability shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

Fourth. In case of the insolvency of any bank or banking association, the bill-holders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

Fifth. Any general banking law which may be passed in accordance with this article, shall provide for recording the names of all stockholders in such corporation, the amount of stock held by each, the time of transfer, and to whom transferred.

Article 9, Sec. 4. Laws shall be passed for taxing the notes and bills discounted or purchased, moneys loaned and all other property effects or dues of every description of all banks and of all bankers, so that all property employed in banking shall always be subject to taxation equal to that imposed on property of individuals.

Statute. A limited partnership can not do banking business. Any association of persons not less than three may be incorporated as a bank. The aggregate amount of capital stock of such association shall not be less than \$10,000 in towns containing a population of not exceeding 1,000 persons and not less than \$15,000 in towns of not exceeding 1,500 inhabitants; not less than \$20,000 in towns of not exceeding 2,000, and not less than \$25,000 in towns of more than 2,000, the population in all cases to be determined by last official census, and no such association shall be organized in any town containing less than 200 inhabitants. The full amount of capital stock named in the organization certificate shall be paid in cash before any association shall be authorized to commence business, and such payment shall be certified to the State Auditor under oath by the President or Cashier of the association.

Articles of Incorporation shall state:—

First. Name to be used by bank, which name shall not be that of any other bank in the State.

Second. The place of business.

Third. The amount of capital stock and number of shares.

Fourth. Name and residence of shareholders and number of shares held by each.

Fifth. The period at which said bank shall commence and terminate.

Certificate of organization must be acknowledged before some Clerk of court of record or Notary Public and authenticated with official seal and recorded in office of Register of Deeds of county where bank is located; the certificate, when so recorded to be transmitted to State Auditor, who shall preserve same in file in his office. Upon fulfilling above requirements bank shall be fully incorporated and have power to contract, sue and be sued, and shall have all other powers, privileges and immunities incident to corporations, subject to restrictions of the chapter. When incorporated as above, State Auditor shall issue a certificate to bank under his hand and seal reciting that the association has complied with requirements of law and is authorized to commence business, which certificate shall be *prima facie* evidence in all the courts of the State that such association is duly and legally incorporated. State Auditor may withhold certificate when he has reason to believe that shareholders have organized for any other object than that contemplated by law of the State, applicable to banking; shall not commence business until authorized by State Auditor; shall cause articles of association and authorization certificate of State Auditor to be published in county where located at least four successive weeks, or in case no newspaper is printed in the county then in one at the capital of State. Any such association may go into liquidation and be closed by the vote of the shareholders owning two-thirds of its stock. When vote to go into liquidation is taken directors shall certify such fact by president or cashier to Superintendent of Banks and publish for four weeks notice that association is closing up its affairs, and that all claims against it shall be presented for payment; shall report on 1st of January and last of July each year on progress of liquidation to the Superintendent of Banks under oath of president, vice-president or cashier, and attested by the signatures of at least two directors; may be sued in liquidation same as if not. When association is insolvent it is unlawful for it to pay out any money

Original from

or receive deposits, discounts or purchase bills, notes or in any other way transact any business of banking; is not forbidden to receive and safely keep any property belonging to said association. All transfers, conversions of property which prevent the application of all of its assets by said corporation to payment of lawful debts are absolutely void when made or done after an act of insolvency, or in contemplation of insolvency, with intent to give creditors preference. No attachment, injunction or execution shall be issued against an insolvent association before final judgment in any suit; shall be quashed upon proof of insolvency at time of issuing. Attorney General shall upon request of Superintendent of Banks institute proceedings to wind up affairs of any banking association when, upon examination of Superintendent of Banks such association is found to be insolvent. Pending application for a receiver Superintendent of Banks may assume control and possession of banks and turn same over when receiver is appointed. Officers and directors may make good deficit after proceedings begun and proceedings must be dismissed. May declare dividend of net profits after deducting all losses and bad debts. All debts on which interest is past due twelve months unless secured or in possession of collector shall be deemed bad debts.

No person or persons who are now, or shall hereafter, become engaged in the business of banking, in this State, not subject to the supervision of, and not required to report to, any officer elected or appointed by the State, shall make use of any office sign at the place where such business is transacted, having thereon any artificial or corporate name; nor shall such person or persons make, use or circulate any letter heads, bill heads, blanks, notes, blank receipts, certificates, circulars or any written, printed or partly printed or partly written paper whatever, having thereon any artificial or corporate name. No bank hereafter incorporated shall adopt or use the name of any private or unincorporated bank now existing without first obtaining consent in writing from the person or persons who have done business by or under such name. The penalty for infraction, not less than \$50 nor more than \$500, to be paid into State Treasury.

Said bank shall deposit with the State Auditor, stock of the United States, bearing at least 5 per cent. per annum, or State stocks bearing not less than 6 per cent. per annum and shall receive from the State Auditor circulating notes registered and countersigned by him, equal in amount to the amount of stocks deposited. The Auditor is to keep stocks so deposited up to full value. In case stocks depreciate, and are not replaced by the bank, the Auditor shall call in the circulation. The liability of the banking association shall at no time exceed 15 per cent. of the aggregate capital stock, and said bank shall not loan or discount on its own stock as security. Said bank shall at all times keep on hand at least 20 per cent. of its liabilities. Banks are required to make at least four detailed reports, in each year, to the State Auditor, and oftener, if required by him, said reports to be under oath of the president or cashier, and attested by at least two of its directors; the reports to be published in a newspaper at the direction of the State Auditor. The public examiner is required to examine the books, accounts and securities of all banks in the State at least once in each year, and report such examination to the Governor, and the Governor is to publish such report.

Savings bank investments are limited, as follows, viz.:

To stocks or bonds of any State in the Union, and of the Territory of Dakota, provided that State or Territory has not defaulted principal or interest on any of its stock or bonds within ten years next preceding, and of the State of Minnesota issued since 1860.

Second. In the stock or bonds of any city, county, town, village, or school district of the States of Minnesota, Wisconsin, Iowa, and the Territory of Dakota issued pursuant to the authority of any law of said States or Territory, or in any interest-bearing obligation issued by the city or county in which such bank shall be situated.

Third. In notes secured by first mortgage on real estate in the States last above named and the Territory of Dakota, and worth at least double value of amount loaned, not to exceed 70 per cent. of whole amount of moneys in bank, to be so loaned or invested. Loans on unimproved or unproductive real estate not to exceed more than 30 per cent. of its actual value.

No investment or loan to be made, except upon report of committee of trustees, who shall certify the value of securities, which certificate shall be filed and preserved by bank. Trustees shall not be less than seven in number, and shall each give bond to State of Minnesota for benefit of depositors in the penal sum of \$5,000.

Association may provide for an increase of capital from time to time. Increase of capital not valid till whole amount of increase is paid in, in cash and certified to by State Auditor. May reduce capital to minimum by vote of two-thirds of stock and consent and approval of State Auditor. Not to lend to any association, corporation or individual or to allow any association, corporation or individual to become indebted to any bank for more than fifteen per cent. of aggregate amount of capital stock actually paid in and of the permanent surplus fund of said institution. Discount of bills of exchange drawn in good faith against actual values and discount of commercial paper actually owned by the person negotiating same not considered borrowed money. Shall not loan or discount on own stock nor purchase or hold such shares unless such security shall be necessary to prevent loss. Shall at all times have on hand in available funds twenty per cent of all immediate liabilities; one-half may be balances due from solvent banks, one-half cash on hand.

Public Examiner shall at least once in each year visit, without prior notice, each of the banking, savings and monied corporations created under the laws of the State of Minnesota and thoroughly examine into the financial condition and report to Governor.

COMMERCIAL LAW.

Acknowledgments. Deeds and mortgages must be signed, sealed and acknowledged by the grantor, and attested by two witnesses. Within the State acknowledgments may be made before any Judge or Clerk of a court of record, Justice of the Peace, Notary Public, Register of Deeds, Court Commissioner or County Auditor. Without the State, but within the United States, by Judges or Clerks of courts of record, Justices of the Peace (whose certificate must be authenticated with certificate of Clerk of

Court) and Notaries Public, also by Commissioners in any of the States or Territories of the United States, duly appointed and commissioned by the Governor of this State. When a married woman unites with her husband in the execution of an instrument she must be described in the acknowledgment as such. In foreign countries before any Notary Public, Minister, Consul or other Diplomatic or Commercial Agent of the United States there accredited and resident. Taxes must be paid before a deed can be recorded.

The following forms of acknowledgment may be used: (Begin by caption specifying State and place where acknowledgment is taken.)

1. In case of natural person acting in his own right:

On this day of, 18... before me personally appeared A. B., to me known to be the person described in and who executed the foregoing instrument and acknowledged that he executed the same as his free act and deed.

2. In case of natural person acting by attorney:

On this .. day of, 18..., before me personally appeared A. B., to me known to be the person who executed the foregoing instrument in behalf of C. D., and acknowledged that he executed the same as the free act and deed of said C. D.

3. In case of corporations:

On this day of, 18..., before me appeared A. B., to me personally known, who being by me duly sworn did say that he is the president (or other officer) of (describing the corporation) and that the seal affixed to foregoing instrument is the corporate seal of said corporation, and that said instrument was signed and sealed in behalf of said corporation by authority of its board of directors, and the said A. B. acknowledged said instrument to be the free act and deed of said corporation.

Assignments must be in writing, subscribed by debtor or debtors and acknowledged and filed with the Clerk of the District Court in the proper county, and if filed within ten days of the levy of an attachment, garnishment, etc. releases the same. Debtor must file inventory of all property within ten days after filing assignment. Assignee must give bond with two or more sureties to be approved by Judge of District Court in double the amount of property inventoried. Claim must be verified by oath of the party, except claims of the United States or State of Minnesota. Debts are paid in the following order after paying costs and charges of assignment: First, debts due the United States and the State of Minnesota, and all taxes levied and unpaid, to be paid in full; second, debts owing for wages of servants, laborers and mechanics and clerks for labor and service performed by them within three months next preceding the date of assignment, which are paid in full to the exclusion of all other indebtedness if there be sufficient wherewith to pay the same in full. If not, they shall be paid pro rata. If an insolvent debtor confesses judgment, makes a conveyance, does any act for the purpose of preferring any creditor, or omits to do any act for the purpose of preventing any creditor from obtaining a preference, or does not within ten days after a levy upon his property, make an assignment for the benefit of all of his creditors, or institute proceedings to obtain a release of execution against him, then, or at any time within sixty days, one or more of his creditors having claims aggregating \$200 may petition the Court for the appointment of a receiver for all of the debtor's property except such is exempt by law. Upon the appointing of an assignee or receiver, all levies upon the debtor's property shall be withdrawn, unless the assignee or receiver deems best to have such levies remain, but such levies shall be for the benefit of all the creditors. Where the complaint upon which judgment is based was filed more than twenty days before judgment rendered in the county where the debtor resides, and an execution has been issued upon said judgment, and levy made, such levy shall not be affected or vacated. Any debtor who confesses or suffers judgment to be rendered against him for the purpose of preferring any creditor, may be fined not to exceed \$500, and, in case he fail to pay the fine, may be imprisoned not to exceed six months. Conveyances and payments made by an insolvent debtor within ninety days of insolvency, in contemplation of insolvency, to parties having reasonable cause to believe the debtor to be insolvent, are void, and may be rescinded by the assignee or receiver. All suits may be brought in the name of the assignee or receiver. Appeals from orders of assignees or receivers disallowing claims may be made to the District Court. The assignee must, within ten days after disallowing a claim, notify the creditors. Assignees and receivers may be removed for cause shown, or upon a petition of two-thirds of the creditors, in number and amount. No creditor is entitled to share in the distribution of the estate, unless he shall first file a release of his claim; provided that creditors may allege and prove fraud and can then come in and share in proceeds without filing release; but if he fails to file and release claim the same is not barred by settlement, but creditor can take judgment and collect against personal or real estate in future. The assignee or receiver shall publish notice of his appointment, and shall mail notice to each creditor, and the creditors shall file their claims within twenty days after notice published. The assignee or receiver shall distribute the estate in the following order: 1st. Cost of proceeding. 2d. Debts due the United States. 3d. Debts due the State of Minnesota. 4th. Taxes and assessments. 5th. Clerks, servants and laborers, for labor performed within three months, in full, not exceeding \$50 to each. The balance shall be distributed pro rata between the creditors.

Assignee or Receiver Fees. Fees to be allowed to assignee or receiver shall not, in ordinary cases, exceed ten per cent. upon amount received up to \$1,000; five per cent on excess of \$1,000 up to \$5,000; and two per cent on excess of \$5,000. Allowances for attorney's fees shall not exceed \$150 when gross proceeds do not exceed \$3,000, and when they do exceed \$3,000 or in cases of extraordinary litigation the court shall allow reasonable amount. Every assignee, receiver, or manager of any property appointed by a Court or managing the same under the direction of any Court of this State may be sued in respect to any act or transaction of his in carrying on the business connected with such property or corporation without previous leave of Court—any judgment recovered in such suit against any assignee, etc., shall be paid as part of the expenses of managing said property.

Assignments made by a co-partnership of which a minor is a member, or of which there shall be special partners, shall be valid if executed by the adult or general partner, and shall pass all unexempt individual property of the adult or general partner and all the co-partnership property of such firm, and Court may appoint receiver, and property shall pass to receiver in like manner.

Attachments may issue from Justice's Court upon filing bond in double the value of the property, and affidavit of plaintiff or some person in his behalf that he has good reason to believe: 1st, that defendant is a non-resident corporation; 2d, that defendant is not a resident of this State and has not resided therein for three months preceding the time of making the affidavit; 3d, that defendant has absconded or is about to abscond from the State; 4th, that defendant has removed or is about to remove his property out of the State with intent to defraud his creditors; 5th, that defendant resides in any other county and more than 100 miles from the residence of the Justice; 6th, that defendant contracted the debt under fraudulent representations; 7th, that defendant so conceals himself that the summons can not be served upon him; 8th, that defendant has, or is about to, fraudulently convey or dispose of his property so as to hinder, delay and defraud his creditors. In attachments in District Courts plaintiff's affidavit must state facts and can not be made on information and belief as in Justice's Courts. Arrest for debt is not allowed in this State. No distress for rent.

Bills of Lading. Bills of lading and warehouse receipts are declared by statute to be negotiable, and may be transferred by indorsement and delivery of such receipt or bill of lading, and any person to whom such receipt or bill of lading may be transferred shall be deemed to be the owner of the goods, wares or merchandise therein specified, so as to give security and validity to any lien created on the same, subject to the payment of freight and charges thereon, provided all warehouse receipts or bills of lading which shall have the words "not negotiable" plainly written or printed on the face thereof, shall be exempt from the provisions of said law.

Bonds, Recognizances, Etc. Legally chartered companies authorized by the laws of any State to guarantee bonds or other obligations may be accepted as surety on any bond, recognizance, obligation, stipulation, or undertaking, and all heads of departments, courts, judges, boards, and municipalities, and any and all public officers, State, county, town, or municipal, whose duty it may be to accept or approve the sufficiency of any such bond, etc., may accept and approve the same when executed or guaranteed solely by such company, whether the law requires more than one surety or not. Such companies must, however, first procure the certificate of the Commissioner of Insurance of this State, authorizing it to do business therein.

Corporations. Any number of persons not less than five may associate themselves and become incorporated for the purpose of building and carrying on railroads and other semi-public works and business, with power of eminent domain.

Any number of persons not less than three may be incorporated for the purpose of engaging in any lawful business. The minimum amount of capital stock shall in no case be less than \$10,000, and shall be divided into shares of not less than \$10 nor more than \$100, except the capital stock of Mutual Building and Loan Associations may be divided into shares of \$200 each. The capital stock and number of shares may be increased at any regular or special meeting of the stockholders.

The Articles of Incorporation shall contain:

1. The name of the corporation, the general nature of the business, and the principal place, if any, of transacting the same.
2. The time of commencement and the period of continuance of said corporation.
3. The amount of capital stock of said corporation and how to be paid in.
4. The highest amount of indebtedness or liability to which said corporation shall at any time be subject.
5. The names and places of residence of the persons forming such association for incorporation.
6. The names of the first board of directors, and in what officers or directors the government of the corporation and the management of its affairs shall be vested, and when the same elected.
7. The number and amount of the shares of the capital stock of said corporation.

Said Articles of Incorporation are required to be published for one week in some newspaper printed and published at the capital of the State, or in some newspaper printed and published in the county where said corporation is organized, and the same shall be filed for record in the office of the Secretary of State, and also in the office of the Register of Deeds for the county where said corporation has its principal place of business.

Each stockholder in any corporation (excepting those organized for the purpose of carrying on any kind of manufacturing or mechanical business), shall be liable to the amount of stock held or owned by him. This is a constitutional provision and is held to impose a double liability on the stockholders of all corporations, except manufacturing corporations.

Courts. Terms and Jurisdiction. District Courts, holding one or more terms a year in each organized county (one every month in Ramsey County), have original jurisdiction in all civil actions involving over \$100; in all actions where a Justice has not jurisdiction, without regard to amount; and in all equitable actions and proceedings, and may issue process in term time or vacation throughout the State, returnable to the proper county. A Probate Court with usual powers is established in each organized county, and holds term on the first Monday of each month. Justice's jurisdiction, \$100. A Municipal Court is established in the cities of St. Paul, Minneapolis, Stillwater, Mankato, Duluth, Brainerd, Waseca and Winona, and in all villages of over 3,000 inhabitants, which is a court of record, with jurisdiction co-extensive with the counties in which they are severally situated, and possessing general powers of Common Law Courts, excepting equity jurisdiction, in matters in controversy where the amount involved does not exceed \$500. St. Paul Municipal Court issues no execution, but judgments are transcribed to District Courts and enforced by its process.

Depositions. Depositions may be taken at any place within or without the State upon notice given to the opposite party giving

one day for every hundred miles, excluding Sundays, and one day for preparation. The same may be taken before any officer authorized to administer an oath. The same shall be taken at the time and place specified in the notice or within one hour thereafter; and the examination of some one of the witnesses named in the notice must be actually commenced. In case the opposite party appears postponements must be arranged by written stipulation to be attached to and returned with the stipulation. In case the opposite party does not appear the adjournments, if any, must be on a day from day to day (Sundays excepted) and the record should state each adjournment and that it was necessarily had. To each witness must be administered an oath in the following form: "You do solemnly swear that the evidence you shall give relative to the cause now under consideration shall be the whole truth and nothing but the truth, so help you God." The testimony must be written by the officer or some one under his direction, and when completed it must be read over to the witness by such officer, and then if the witness desires to qualify what is written, or add thereto, such qualifications must be made not by erasures or interlineations, but by adding the same at the end. When all is completed to the satisfaction of the witness he must subscribe his testimony at the end and he must also write his name upon each piece of paper upon which any of his testimony appears. Where books of account or letter-press copies of letters, etc., are admitted as evidence the production of said books or letter-press copies, before any officer taking any deposition, shall be held to be equivalent to producing the same at the trial, and copies of the entries or other things therein contained, desired to be introduced in evidence, may be made and attached to the deposition as exhibits, and shall be evidence of like force and effect as the books or letter-press copies themselves.

Executions may issue from District Courts at any time within ten years after judgment, and to any county where a transcript has been docketed. Executions are returnable in sixty days, but may be renewed for sixty days at a time for any length of time, upon the request of judgment creditor or his attorney. Personality is first levied on, and is sold on ten days' notice; real estate after six weeks' publication. In Justice's Courts execution may issue ten days after entry of judgment, returnable in thirty days, and renewable from time to time for periods of thirty days. Executions in Municipal Courts the same as in Justice Courts, except that they may issue at once. In courts of record six months' stay is granted on defendant filing bond with two free-hold sureties, approved by the court, conditioned to pay amount of judgment with costs, and interest at the rate of ten per cent. per annum. Stay in Justice's Courts may be had in same manner, where judgment is under \$10, one month; \$10 to \$25, two months; \$25 to \$50, three months; \$50 to \$75, four months; over \$75, six months. Real estate sold on execution is subject to redemption for one year from date of sale. Attorney of Record can satisfy judgment at any time within two years after entry.

Exemptions. Surviving husband or wife holds homestead free from debts of deceased for life of survivor. Homestead of eighty acres in country; half an acre if in city, town or village not incorporated, and of less than 5,000 inhabitants, and one lot if in larger cities, towns or villages, with buildings thereon, without regard to value. Wearing apparel, books, pictures and furniture, up to \$500; three cows, ten swine, twenty sheep, and wool from the same, a yoke of oxen and a horse, or, in lieu thereof, a span of horses or mules; necessary food for stock for one year; wagon, plows and farming utensils up to \$300; necessary seed grain for the actual personal use of the debtor for one season, to be selected by him; not, however, in any case to exceed the following kinds and amounts respectively: viz., fifty bushels of wheat, fifty bushels of oats, fifteen bushels of potatoes, three bushels of corn, and thirty bushels of barley, and binding material sufficient for use in harvesting the crop raised from the seed grain above specified. The tools and instruments of a miner, mechanic or other person, and stock in trade up to \$400; library and instruments of a professional man; \$25 wages of laboring man or woman, for services rendered within thirty days preceding the issue of process. Also, where the debtor is a printer, publisher or editor of a newspaper, all the presses, stones, type, cases and other tools and implements not exceeding \$2,000, and stock in trade up to \$400.

Interest. Seven per cent. is the legal rate of interest upon every legal indebtedness, including judgments and accounts. Since July 1, 1879, the highest rate of interest allowed to be taken by special contract is ten per cent. All usurious contracts are void, and Court will decree cancellation. Where usurious interest has actually been paid the entire interest may be recovered in a civil action, half to go to party bringing action, and half to go to County Treasurer for benefit of Public Schools, with all interest.

Judgments. If no defense is made, judgments can be obtained at the expiration of twenty days in District Court, and upon being docketed in the office of the Clerk of the court, they become liens upon all real estate of the debtor in the county where docketed, owned by him at that time or afterwards acquired, for ten years after date of docketing, and can be enforced during that time by execution against the real or personal property of judgment debtor. Judgments in Municipal Courts may be had at general term, which are held twice each month, where action is begun at least six days previous to term, and may be docketed in District Court and become a lien when the amount exclusive of cost exceeds \$10. Also judgments of United States Court become liens, as above, when docketed in proper court.

Liens. Statute gives lien for work and labor performed or skill furnished by mechanic on any building, boat or vessel, and for materials furnished for the erection, alteration or repairing of any building, boat or vessel, or on anything manufactured or repaired to the extent of the amount of repairs or material; also gives to servants and clerks a lien on personal property, not to exceed \$200 in amount, for work performed within six months next preceding filing of lien. All liens must be filed within ninety days from date of last item of work or labor or material furnished.

Limitations to Suits. On contracts, express or implied, six years; on judgments, ten years; to foreclose mortgages, fifteen years; real actions, fifteen years. Revivor: Part payment or new promise in writing. Original from

Married Women. All property acquired by wife before or after marriage remains her separate estate, neither controlled by nor liable for the debts of her husband. Married women are held on their contracts and bound by them the same as if unmarried; except, a married woman can not sell her real estate, or make any conveyance of land other than a mortgage for the purchase money or a lease for three years or less, without her husband joins in the conveyance. The deed of a married woman to her husband, or *vice versa*, is absolutely void. Estates in dower and by the curtesy are abolished, and the surviving wife or husband is entitled to the homestead for life free from debts of the deceased, and to one equal undivided one-third of all other lands of which the deceased was seized during coverture, subject to payment of lawful debts of the deceased, but free from any testamentary or other disposition.

Mortgages on real estate must be recorded, acknowledged and have two witnesses, and are foreclosed by action or publication. A year is allowed for redemption. Chattel mortgages are void as against creditors and subsequent mortgagees and purchasers in good faith, unless acknowledged and filed with the Town or City Clerk, both where property is situated and where mortgagor resides. They are then valid, but cease to be notice after two years from date of maturity, but may be renewed by filing affidavit, stating mortgagee's interest and amount unpaid, which renewal operates to extend mortgage for one year from date of filing affidavit. Interest of mortgagor subject to sale on execution, and purchaser is substituted in place of mortgagor, and acquires rights of redemption.

Notes and Bills of Exchange. Commercial paper is that class of paper usually designated as such by the law of merchants; viz., notes, bills, drafts, etc. Paper need not be made payable at any particular place. On all bills of exchange payable at sight, or at a future day certain, and on all negotiable promissory notes, orders and drafts payable at a future day certain, within this State, in which there is no express stipulation to the contrary, grace is allowed of three days. No grace on demand paper. Damages five per cent. on domestic and ten per cent. on foreign paper protested. Notes obtained by fraudulent representation without negligence on part of maker void; question of negligence one of fact for jury. Bills of exchange, drafts, promissory notes and contracts due or payable, or to be executed on Sunday, Thanksgiving day, Good Friday, Christmas day, New Year's day, the 22d day of February, the 4th day of July or on the following day, when either of the four days last mentioned occurs on Sunday, shall be payable or performed upon the business day next preceding such days, and in case of non-payment or non-fulfillment shall be noted and protested upon such preceding day, but notice of dishonor, non-payment, or non-fulfillment need not be given until the business day next following the days above specified. February 22d, 30th day of May, and first Monday in September (Labor Day) are the only statutory legal holidays.

Right to Hold Property. It shall be unlawful for any person or persons not citizens of the United States, or who have not lawfully declared their intention to become such citizens; or for any corporation not created by or under the laws of the United States, or some State or Territory, to hereafter acquire, hold or own any real estate so hereafter acquired, or any interest therein, in this State, except such as may be acquired by devise or inheritance, or in good faith in the ordinary course of justice in the collection of debts hereafter created, or to the foreclosure of mortgages. The above prohibition does not apply in cases where right to hold land in the United States is secured by existing treaties to citizens of foreign countries, nor to actual settlers upon farms of not more than 160 acres, who may settle thereon before January 1st, 1889. No corporation or association, twenty per centum of the stock of which is or may be owned by any person or persons, associations or corporations not citizens of the United States, shall hereafter acquire, hold or own any real estate in this State. No corporation, other than those organized for construction or operation of railways, turnpikes or canals, shall acquire, hold or own over 5,000 acres of land so hereafter acquired in this State, and that no railroad, canal or turnpike corporation shall hereafter acquire, hold or own other than may be necessary for the proper operation of its railway, canal or turnpike, except lands granted by United States or State. All lands acquired, held or owned in violation of the provisions of this act shall be forfeited to this State. It is the duty of the Attorney General to enforce any such forfeiture by due process of law.

Suits. There is only one form of action, and all civil actions must be prosecuted in the name of the real party in interest, except suits by administrators, etc. Full name of plaintiff must be furnished. Process to commence suit in the District Court must be served on the debtor twenty days before judgment can be taken by default, except action for divorce, when summons must be served at least thirty days before defendant will be in default, and summons in divorce may be personally served outside of the State. A deposit of \$3 with Clerk of Court for costs in all civil actions hereafter begun is required before entry of action on docket (Hennepin and Ramsey county excepted). Process in Justice's Courts must be served not less than six nor more than twenty days before return day. Summons in Municipal Court must be served at least six days before term.

Taxes become due and payable on the first Monday in January in each year; personal property tax delinquent March 1; real property tax delinquent June 1. Sheriff to levy distress on personal property after April 1, and sell for tax. A penalty of 10 per cent. attaches to personal property March 1. A penalty of 10 per cent. attaches to real estate June 1. On the first Monday in January an additional 5 per cent. attaches to delinquent real estate taxes. Real property sold on first Monday in May; two years redemption allowed; a notice must be served upon owner 90 days before time of redemption expires. Redemption by minor heirs two years after obtaining majority.

Wills. Every person of full age and sound mind may devise and dispose of any property by his last will and testament in writing. And any married woman may devise and dispose of any real or personal property held by her, or to which she is entitled in her own right, and may alter or revoke the same in like manner as if she were unmarried. Said wills shall be in writing and signed at the end thereof by the testator or by some person in his presence and by his express direction, and attested and subscribed in his

presence by two or more competent witnesses. All devises, legacies, or gifts made in any will to a subscribing witness thereto shall be void unless there are two other competent subscribing witnesses to the same. The surviving husband or wife shall be entitled to hold for the term of her natural life, free from any testamentary or other disposition thereof, to which such survivor shall not have assented in writing, and free from all claims on account of the deceased, the homestead of such deceased, and such surviving husband or wife shall also be entitled to and shall hold in fee simple or by such inferior tenure as deceased was at any time during coverture seized or possessed thereof, one equal undivided one-third of all other lands to which the deceased was at any time during coverture seized or possessed, free from any testamentary or other disposition thereof to which such survivor shall not have assented in writing, but subject in its just proportion to the other real estate to the payment of such debts of the deceased as are not paid from the personal estate.

MISSISSIPPI.

BANKING LAW.

(Revised by BRAME & ALEXANDER, Attorneys at Law, Jackson.)

There are no provisions in regard to banks in the constitution, and such institutions are governed by their charters and the common law. There are, however, some statutes to prevent insolvent banks from continuing business. There is no system of official examination, but all banks, except National banks, are required by statute to make a report, not less than four times each year, to the Auditor of the State. And the Auditor shall make requisition on all banks for these reports to be made as of dates prior to the date of the requisition and such date to be known only to himself. Such reports shall be verified and, besides being furnished the Auditor, shall be published in full in a newspaper of the town or city where the bank is located. Their resources and liabilities shall be stated in such reports. (Code 1892, sec. 246.)

Acknowledgments or proof of deeds to property in this State by persons in a foreign country may be made before any court of record, or the Mayor or Chief Magistrate of any city, borough or corporation of such country where the grantor or witnesses reside, or may be; or before any Commissioner in such country appointed by the Governor of this State, or before any Ambassador, Foreign Minister, Secretary of Legation, or Consul of the United States. The certificate shall show that the party, or party and witness were identified before the officer and that the party acknowledged the execution of the instrument, or that the execution was duly proved by the witness or witnesses. (Code 1892, sec. 2467.)

COMMERCIAL LAW.

Acknowledgments in the State may be before any Judge of the Supreme or Circuit Court, any Chancellor, Clerk of a court of record under his seal, Justice of the Peace, Notary Public, or member of the Board of Supervisors. Acknowledgments in another State may be certified and proven before any of the Judges of the Supreme Court of the United States, or any District Judge of the United States, or a Judge of the Supreme or Superior Court in any State or Territory, any Justice of the Peace, or Notary Public whose official character shall be certified to under the seal of some court of record in his county, or by any commissioner residing in such State or Territory, appointed by the Governor of Mississippi, or a Notary Public or a Clerk of a court of record having a seal of office. [Code 1892, secs. 2464, 2466.]

Assignments and Insolvency. No insolvent law. Debtor may make assignments to secure creditors, and may prefer creditors, but no benefit, direct or indirect, may be reserved to the debtor. There is no provision for the discharge of a debtor on his making an assignment. There is no statute governing partial assignments.

In cases of general assignments, where the value of the property exceeds \$1,000, the assignee must give bond and administer the trust in the Chancery Court. Schedules and inventories are to be filed. Creditor may file petition, and, by showing assignment is fraudulent, shall have priority for his debt. All debts must be established to the satisfaction of the Court. Preferences not prohibited, and may be made. The assignor must file schedule of debts and assets, and must make oath to same. (Code 1892, secs. 117-124.)

Attachment. The property of a debtor who is a non-resident, or who removes or is about to remove himself or property out of the State; who absconds or conceals himself; or who incurred the debt in conducting the business of a ship, steamboat or other water craft in some of the navigable waters of this State; or who assigns or disposes of his property, or some part thereof, or is about to assign or dispose of his property with intent to defraud his creditors; or who has property or rights in action which he conceals and unjustly refuses to apply to the payment of his debts; or who has converted or is about to convert his property into money or evidences of debt, with the intent to place it beyond the reach of creditors; or who has fraudulently contracted the debt or incurred the obligation for which suit has been or is about to be brought, may be attached. Non-resident creditors have the same rights of attachment as resident creditors, whether the debtor be resident or non-resident. Attachments constitute liens on the property in the order in which the writs are levied, and are to be satisfied in that order. Plaintiff must furnish bond and make affidavit as to one or more of the grounds of attachment specified above. The suit does not abate on verdict for defendant, on a plea denying grounds of attachment; but judgment may be rendered on the debt, to be offset by any verdict of damages in favor of defendant for wrongfully suing out attachment. Any of the other creditors may intervene and contest ground of attachment, if defendant omits to do so. Garnishee process will issue in aid of attachment or execution. No arrest or imprisonment for debt in Mississippi.

In addition to those named above, the following grounds are given by the Code of 1892: "9. That the defendant is buying, selling, or dealing in, or has within six months next before the suing out of the attachment, directly or indirectly, bought, sold, or dealt in future contracts, commonly called 'futures.' 10. That he is in default for public money, due from him as a principal, to the State, or some county, city, town, or village thereof. 11. That defendant is a banker, banking company, or corporation, and received deposits of money knowing at the time that he or it was insolvent; or has made or published a false or fraudulent statement as to his or its financial condition." Attachments for debts not due allowed for last five grounds—or when the creditor makes affidavit that he has just cause to believe that the debtor will remove himself or his effects out of State before debt will be due with intent to defraud. (Code 1892 secs. 125-177.)

Bills of Exchange must be protested, and notice of non-payment given substantially as at common law, to bind parties entitled to notice. Promissory notes in this State are not required to be protested, but demand and notice are necessary to fix liability of parties secondarily liable. There is no law defining commercial paper. All notes, bills, drafts, etc., are assignable, and suit may be maintained in the name of the assignee; but defendant can make all defenses which he had against payee before notice of assignment. (Code 1892, sec. 3503.) Foreign bills of exchange payable out of the United States, protested for non-acceptance or non-payment, draw ten per cent. damages and legal interest; bills drawn payable in the United States, protested for non-acceptance, draw damages at the rate of five per cent. besides legal interest. Checks, drafts and notes payable on demand, are not entitled to any days of grace; while notes, bills and drafts, foreign, as well as inland, drawn payable at sight or time, are by the laws of this State entitled to the usual days of grace, and in this respect are the same as by the law merchant. Where a bank check is expressly made payable on a future day, or where, by the way it is drawn, it takes on the character of a draft or bill of exchange, the weight of authority is that it is entitled to days of grace. Domestic bills of exchange drawn on and payable in this State for twenty dollars or upwards, must be protested for non-acceptance or, if accepted for non-payment, they are governed by the same customs and usages as foreign bills of exchange, but no damage accrues. When the day on which any bill of exchange or promissory note should be presented for acceptance or payment, according to its terms, shall fall on Sunday, New Year's Day, Fourth of July, or Christmas Day, it shall be presented on such day next before the day on which, by its terms, it is presentable, as shall not be one of the days herein specified.

Bills of Lading. By statute, bills of lading, and warehouse receipts or instruments in the nature thereof, are made conclusive evidence in the hands of every *bona fide* holder, as against the person or corporation issuing the same, that the property was actually received for shipment or storage.

Corporations. Under the constitution corporations can only be formed by general laws. The legislature may alter, amend, or repeal any charter granted after November 1, 1890, provided no injustice is done stockholders. Charters can not be granted for longer time than ninety-nine years. Existing corporations receiving any benefit by amendment shall come under the operation of the foregoing provisions of the constitution. Unless otherwise provided by law, a corporation may hold property for its purposes, not exceeding in value \$250,000. Banks and manufacturing companies may hold \$1,000,000. Corporations can not employ money or assets otherwise than in its legitimate business. No restrictions on railroads as to amount of property.

Directors of manufacturing and trading corporations are personally liable for excess of debts over capital paid in. Stockholders of all corporations are liable to creditors to amount of unpaid subscriptions to capital stock. Mortgages executed since Nov. 1, 1880, on income and rolling stock of railroads, shall be subject to liabilities incurred by the road as a carrier, and to claims for damages to persons or property.

Foreign corporations may do business in this State, and may sue and be sued here. Foreign insurance companies, by agent, can not do business in this State without making annual statements to the Auditor, and becoming liable to suit here. All railroads must be built, operated, and used by corporations created under the laws of this State. Constitution 1890.

Courts. Terms and Jurisdiction. Circuit Courts, holding at least two terms a year in each county, have jurisdiction for the collection of all claims over \$200. Chancery Courts have full equity and probate jurisdiction and are held twice a year in each county. Justice's Courts have jurisdiction for the collection of debts or claims for damages up to \$200, and shall hold terms at least once each month.

Depositions. Taken on written interrogatories, filed in the Court where they are to be used; ten days' notice to be given of issuance of commission. If party is absent and has no attorney, filing interrogatories ten days sufficient notice. Commission to take deposition of witness out of State may be to one or several commissioners by name, in the alternative, or to any Judge of a court of record, Justice of the Peace, Mayor, or Chief Magistrate of a city or town, commissioner appointed by the Governor of this State, or other person authorized to administer oaths by the law of the place where the deposition is to be taken. The officer shall swear the witness to testify the truth, and shall impartially examine him on the interrogatories. The testimony shall be fairly written down by the officer or witness, or by a disinterested person in the presence, and shall be subscribed by the witness. Depositions shall then be certified and sealed up by the officer, and transmitted in a safe and convenient manner to the Court where the same is to be used. Officers' certificate shall be *prima facie* evidence of his character and authority.

Estates of Decedents. All claims against a deceased person, whether due or not, must be registered within one year after the first publication of notice to creditors to present their claims; otherwise they will be barred; provided creditors failing to register claims shall not be barred as to surplus after registered claims are paid, if claim is presented and proven before distribution. The presentation of a claim and the registration thereof, as required

by law, stops the running of the general statute of limitations as to such claim whether the estate be solvent or not.

Executions issue in courts of record within twenty days after the adjournment of court for the term, unless otherwise ordered by the plaintiff, and in Justice's Courts after the lapse of five days from judgment rendered, unless recovering party makes affidavit that he is in danger, by delay, of losing his debt or demand, in which case execution issues forthwith. No redemption of lands or other property sold under execution or mortgage.

Exemptions. Residence of householder, male or female, being a citizen of this State, and having a family, 160 acres in country, or residence and lot in city, town or village, in no case exceeding, with improvements, \$2,000 in value. The proceeds of insurance on property exempt by law, and the proceeds of the sale of exempt property. The following personal property is exempt: The tools of a mechanic necessary for carrying on his trade. The agricultural implements of a farmer necessary for two male laborers. The implements of a laborer necessary in his usual employment. The books of a student required for the completion of his education. The wearing apparel of every person. The libraries of all persons not exceeding \$250 in value; also the instruments of surgeons and dentists, used in their profession, not exceeding \$250 in value. The arms and accoutrements of each person of the militia of the State. All globes and maps used by the teachers of schools, academies, and colleges. The following property of each head of a family, to be selected by the debtor is exempt: 2 work-horses or mules and 1 yoke of oxen; 2 cows and calves; 20 head of hogs; 20 sheep or goats; all poultry; all colts under three years old raised in this State by the debtor; 250 bushels of corn; 10 bushels of wheat or rice; 500 pounds of pork, bacon, or other meat; 100 bushels of cotton seed; 1 wagon, and 1 buggy or cart, and 1 set of harness; 500 bundles of fodder, and 1,000 pounds of hay; 40 gallons of sorghum or molasses; 1,000 stalks of sugar-cane; 1 sugar-mill and equipments not exceeding \$150 in value; 1 bridle and saddle, and 1 side saddle; 1 sewing machine; household and kitchen furniture not exceeding in value \$200. And the following is exempt from garnishment or other legal process: The wages of every laborer or person working for wages, being the head of a family, to the amount of \$100, and every other person to the amount of \$20; the proceeds of a life insurance policy, to an amount not exceeding \$10,000 upon any one life, shall inure to the party or parties named as the beneficiaries thereof, free from all liability for the debts of the person whose life was insured, even though such person paid the premiums thereon; the proceeds of a life insurance policy not exceeding \$5,000, payable to the executor or administrator of the insured, shall inure to the heirs or legatees, freed from all liability for the debts of the decedent; but, if the life of the deceased be insured for the benefit of his heirs or legatees at the time of his death otherwise, and they shall collect the same, the sum collected shall be deducted from the \$5,000 and the excess of the latter only shall be exempt. A householder having a family, residing in a city, town, or village, entitled to \$250 worth of personal property to be selected by him, or the other articles specified and enumerated above. No property exempt as against purchase money, but the same liable to seizure at the suit of the vendor while in the possession of the first vendee. Nor is any property exempt from taxes, or for labor done or materials furnished or in case of judgment on a forfeited bail bond or recognizance. (Code 1892, secs. 1963-1986.)

Interest. The legal rate of interest is six per cent. per annum, but parties may contract in writing for ten per cent.; when more than ten per cent. is stipulated for, all interest shall be forfeited.

Judgments when enrolled in Circuit Clerk's office become liens on defendant's property within the county, and may be extended to other counties by filing certified abstracts of the judgment. A junior judgment creditor may obtain priority as to property levied on by him, if, after ten days notice, the senior judgment creditors have failed to issue executions and point out the property. Lien of judgment continues seven years.

Limitations of Actions. Open accounts, accounts stated and verbal contracts, express or implied, three years; on all other contracts, six years; and awards of arbitrators, six years; judgments and decrees rendered in another State against resident of this, three years; rendered in this, seven years; real actions, ten years. Revivor: An acknowledgment of the debt or new promise in writing. Private seals dispensed with, except as to corporations.

Married Women retain their estate, real and personal, however acquired. The common law disabilities of married women are abrogated, and married women have same capacity to make contracts and do all acts in reference to property which single women have. Married women may dispose of property by will, in same manner as single women. Dower and curtesy are abolished. If husband dies intestate, leaving no children nor descendants of children, his widow inherits entire estate, both real and personal; but if husband have child or children, or descendants of same, widow inherits a child's part. The same rules of descent regulate both realty and personalty. Husband and wife must join in conveying or encumbering homestead.

Mortgages and Trust Deeds do not take effect as to creditors or purchasers in good faith and without notice until they are delivered to the Clerk for record. Mortgages without power of sale are foreclosed by bill, and there is no provision for redemption. Chattel mortgages must be recorded, or possession of the property must pass.

Suits. All distinction as to forms of action are abolished in this State. Service must be had both in Circuit and Justice's Courts five days before the court sits. All actions *ex contractu* in the Circuit Court in which the defendant has been personally served with process thirty days before the return day, actions to enforce mechanics liens, actions commenced by attachment and actions of replevin shall be triable at the return term. (Code 1892, sec. 722.)

Taxes. Personal property is assessed once a year; real estate every four years, and taxes constitute a prior lien on both real and personal property. Taxes are due on or before December 15 of each year and personalty can be sold on five days' notice. Where there is no personalty, land of the tax-payer is sold by the Collector on the first Monday of March following. The owner or any one interested in any lands sold for taxes, may redeem within two years after the day of sale, on the payment of all taxes, costs, fee

and 25 per cent. damages, and 5 per cent. on amount paid by purchaser, and cost of the conveyance and registration. Infants and persons of unsound mind may redeem within two years after removal of disability, on paying the value of permanent improvements put on the land after two years from date of sale. (Code 1892, sec. 3823.)

Wills may be executed by anyone twenty-one years old. If not wholly written and subscribed by testator, execution must be attested by two subscribing witnesses. A nuncupative will (of personalty) may be made during last sickness of testator at habitation, or where testator has resided ten days next before death, or where person is taken sick from home and dies before return; must be proved by two witnesses, that the testator called on some person to take notice that such is his or her will, or words to that effect. Soldiers and sailors in actual service may bequeath personalty free from statutory restrictions. A will may be probated in common or solemn form. If in common form, it may be contested within two years, and an issue is made up to be tried by a jury.

MISSOURI.

BANKING LAW.

(Revised by J. C. FISHER, Attorney at Law, Jefferson.)

Missouri Laws makes president, director, manager, cashier, or other officer of bank receiving or assenting to receipt of money or other valuable thing, or creating or assenting to the creation of any debt, knowing the bank to be insolvent, guilty of larceny, and the failure of the bank is *prima facie* evidence of such knowledge.

The Revised Statutes of 1889 provide that five or more persons in any county, who have associated themselves together by articles of agreement in writing for the purpose of establishing a bank of discount, or of both discount and deposit, may be incorporated under a name or title designating such business. In no case shall the cash capital be less than \$10,000, nor more than \$5,000,000. In cities of 150,000, or more, the capital shall not be less than \$100,000. The stock shall be divided into shares of not less than \$100 each. One-half of the capital stock subscribed must be paid up before a certificate of incorporation can be issued; the remaining half to be paid within one year from the date of the certificate. Twice a year the Secretary of State is required to call for a report from every institution doing a banking business under the provisions of this act; but a statement may be called for oftener if desired. No person shall engage in banking business with less than \$5,000 capital, and until he has made statement under oath of this fact.

Law of 1889 fully defines rights and powers of Savings banks, and provides, among other things, that such banks shall be allowed by law "to buy, sell, and discount negotiable and non-negotiable paper of all kinds as well as all kinds of commercial paper." All business corporations organized under statute must first pay up one-half of capital subscribed. Under laws of 1893 Savings banks must be managed by directors, and they must be residents of this State.

"Trust companies" and "Saving societies" may be organized under special statute defining powers and providing manner of conducting business.

COMMERCIAL LAW.

Acknowledgments are taken in Missouri, by a court having a seal, or Judge, Justice or Clerk thereof, Notary Public, or Justice of the Peace of county wherein land is situated. If out of Missouri, but in United States, by a Notary Public, State or Federal court, having a seal, or Clerk of such court, or Commissioner appointed by Governor. If without United States, by any court having seal of State, Kingdom or Empire, or chief officer of any city or town having a seal, or any Minister or Consul of United States, or any Notary having a seal, and all deeds conveying or affecting real estate must be acknowledged before some such officer duly certified and recorded in the office of the Recorder of the county in which such real estate lies. Separate examination of wife no longer required.

Assignments and Insolvency. An insolvent may make a voluntary assignment for the benefit of all creditors, which must contain a statement of the value of his property and his liabilities, duly sworn to and also acknowledged as deeds are acknowledged; and assignee must file inventory of assets within fifteen days after execution of deed of assignment and give secured bond within three days. Assignee fixes a day for hearing claims, and gives notice thereof by publication for three months. Circuit Court has supervision of all assignment proceedings, and may appoint an assignee in case of a vacancy in the trust. (Laws, 1887, page 24.) Debtor is not discharged from his liabilities except by consent of creditors.

Attachments will issue in aid of summons when defendant is non-resident or a foreign corporation, or conceals, absconds, or absents himself, removes or attempts to remove, with intent to change his domicile, or to sell, convey, assign, or dispose of property, with intent to defraud, hinder or delay creditors, or where the debt was fraudulently contracted, or where the action is for damages arising from the commission of a felony or misdemeanor, or for the seduction of a female, or where debtor has failed to pay price of goods which by contract were to be paid for on delivery. Writs of attachment may be levied by garnishing a debtor of the defendant. There is no arrest for debt in any case.

Bond Investment Companies required to deposit \$100,000 with State Treasurer before doing business.

Business Corporations are authorized now to issue preferred stock, but the articles of incorporation must give the authority, amount, etc.

Corporations. Domestic corporations, except insurance, railroad, and building and loan, are required by the acts of 1893 to file statements with the Secretary of State. The location of its principal offices, the name of its President and Secretary, the amount of its capital stock, both subscribed and paid up, the par value of its stock and the actual value of its stock at the time of making the report, the cash value of all of its personal property, and of all its real estate within this State on the first day of June immediately preceding, and the amount of taxes, etc., paid.

Foreign Corporations. Foreign corporations, except insurance, railroad and building companies, shall annually, on the first of July, report to the Secretary of State the location of its principal office, factory or plant in this State, the name of its principal officer in this State, the cash value of all of its personal property and its real estate within this State, on the first day of June immediately preceding, the amount of taxes, etc., paid. These statements must be sworn to, and failing to file same shall subject them to a fine for not over \$1,000 for each offence, and each succeeding thirty days shall constitute a separate offence. Other penalties are provided for failing to comply. Installment bond investment companies are not allowed to do business in this State without complying with the acts of 1893, which requires a deposit of \$100,000, and other conditions.

Courts. Terms and Jurisdiction. Justice's Courts, in counties having over 50,000 inhabitants, have jurisdiction on contracts and torts to extent of \$250, and of all actions against railroads for killing or maiming stock, irrespective of value. In counties having less than 50,000, in all cases both of contract and tort to the extent of \$150, and against railroads for killing or maiming stock irrespective of value. Circuit Court has unlimited general jurisdiction exceeding \$50. In some counties there are local courts, called Common Pleas, of concurrent jurisdiction with the Circuit Courts over certain districts. Circuit Court holds two to three terms annually (in St. Louis five). There is a Probate Court in each county, with the usual powers.

Executions may issue at any time within ten years from the time judgment is rendered; are returnable to the next term of court after they are issued. Execution from Circuit Court not a lien upon personal property until levied. Execution from Justice's Court a lien upon personal property as soon as placed in hands of Constable. There is no stay of execution. Real estate taken under execution is sold without appraisal, to the highest bidder.

Exemptions. To heads of families: Personal property, various articles and stock named, or else if chosen by debtor, in value \$300, and laborers' wages earned in last thirty days; homestead; 160 acres in country, or thirty square rods in city of less than 40,000 inhabitants, either in value \$1,500; in cities of over 40,000, eighteen square rods, value \$3,000. Laws of Missouri, 1887, page 198, makes homesteads liable to attachment and execution upon all causes of action existing at time same is acquired.

Express Companies. Charges regulated by State Board of Railroad and Warehouse Commissioners.

Interest. The legal rate is six per cent., but parties may contract in writing for not to exceed eight per cent. The penalty for usury is the forfeiture of the interest at ten per cent. to the common schools, and the recovery of costs by the defendant. Judgments bear interest at the rate of six per cent. per annum. If the contract sued on calls for a higher rate—not exceeding eight per cent.—the judgment thereon may be made to bear the rate of interest so agreed on. An open account bears interest at the rate of six per cent. per annum from the time when demand for payment is made.

Judgments of courts of record, including United States Circuit Courts, are liens upon real estate of defendant within the county, and may be extended to other counties by filing transcript. In the city of St. Louis such judgments are not liens until abstracts thereof are entered in the abstract book. Judgments of Justices of the Peace are liens on realty after transcript is filed in Circuit Clerk's office. Lien continues three years from rendition of judgment, and may be renewed for two years by *scire facias*. Judgment may be renewed within ten years for an additional period of ten years.

Limitation of Suits. Open accounts and all promises not in writing, five years; Justices' judgments, five years; contracts and instruments in writing, ten years; judgments and decrees of courts of record, twenty years. Revivor: New promise in writing or part payment.

Married Women hold their real and personal property in their own name, free from control of the husband, and not liable for his debts, and also through the intervention of a trustee. Wife is liable for her ante-nuptial debts. A married woman can make contracts in her own name, buy goods, and give notes in settlement of purchases binding her own separate property, both real and personal. Widow takes dower in one-third for life of all the husband's property, except such as may be acquired from wife not liable for her ante-nuptial debts. Husband dying, leaving children by widow, she takes absolutely a share of his personalty equal to the share of a child, and she may in such case elect to take absolutely in lieu of dower a share in her husband's real estate equal to a child's part thereof. In conveying real estate, relinquishment of dower and separate examination not required. May sue and be sued as a *femme sole* in any court of law or equity without fining her husband.

Mortgages and Deeds of Trust must be executed and acknowledged like other deeds, and must be recorded. The usual form of security is a deed of trust, by which the property is conveyed to a trustee, with power to sell without intervention of the court. Chattel mortgages are void as to creditors of the grantor and purchasers without notice, unless possession of the property passes to and is retained by the mortgagee, or the mortgage or deed is recorded. Real property sold under deed of trust without foreclosure, may be redeemed within one year if bought in by the *cestui que trust* or his assignee, or by any person for them or either of them; if bought by a stranger there is no redemption. Unless evidenced by writing, executed, acknowledged and recorded as provided in cases of mortgages of personal property, all sales of goods and chattels, unless accompanied by a delivery of possession within a reasonable time, are fraudulent and void as against vendor's creditors and subse-

quent purchasers in good faith. All conditional sales, leases, rentals or hiring of personal property unless evidenced by writing, executed, acknowledged, and recorded as provided in mortgages of personal property, are void as to creditors and subsequent purchasers in good faith.

Notes and Bills of Exchange. Bills of exchange, notes payable to a party or order or bearer and expressed to be for value received, bills of lading and warehouse receipts, are made negotiable by statute, and are governed by the rules applicable to commercial paper; and negotiable notes are payable as therein expressed; if payable at a certain bank on face, demand of payment must be made at the bank named. Sight drafts or demand drafts on persons residing in this State are due and payable on the day demand of payment is made, and must be protested on that day if not paid. Upon protested bills, and upon notes that have been negotiated, the following rates of damages can be recovered if the bill or note is overdue twenty days before suit is begun: 1st, if drawn upon a party in this State, four per cent.; 2d, if drawn upon a party out of this State and within the United States, ten per cent.; 3d, if drawn upon a party out of the United States, twenty per cent. The destruction of a bill by the drawee, or refusal to return it within twenty-four hours after presentation for acceptance, is taken to be an acceptance. Damages for protest are allowed only to holders for value or their assigns. No days of grace are allowed on sight bills or orders. Public holidays are January 1, February 22, July 4, December 25, General Election day and Thanksgiving Day; and notes or bills falling due upon a Sunday or public holiday are payable on the next day, unless the latter be also a Sunday or holiday, in which case they are payable on the day preceding actual maturity.

Powers of Attorney for conveyance of real estate, or whereby real estate is affected, must be executed, acknowledged and recorded in same manner that deeds to such property are made, and a married woman may convey her separate estate and relinquish her dower by power of attorney executed jointly with her husband as above stated. Sale of land by an agent not binding upon principal unless agent is authorized in writing to make the sale. (Laws, 1887, page 195.)

Seals. The use of private seals in written contracts, conveyances of real estate, and all other instruments of writing, heretofore required by law to be sealed (except the seals of corporations), was abolished by the legislature in 1893, but the addition of a private seal to any such instrument shall not in any manner affect its force, validity, or character, or in any way change the construction thereof.

Suits for collection of debts may be brought by summons in the county where defendant resides, or in the county where plaintiff resides, if defendant can be found there; where there are several defendants, in any county in which one of them resides; and when defendants are non-resident, then in any county. Names of individual plaintiffs must be furnished, and a bond given for costs by non-residents.

Taxes remaining unpaid after December 31, are subject to a penalty of one per cent. per month until paid. Tax and penalties are a lien upon property assessed, which may be sold after January 1. Payment of delinquent taxes must be enforced by suit in court by the Collector, and judgment and special execution and sale by Sheriff, and all parties to the record are concluded thereby in absence of fraud. Suits for personal taxes barred in five years. (Laws 1887, page 242.)

Trade Marks. Laws of 1893 repeal former laws and specifically provide for better protection of Trade Marks.

Trusts. Statute of 1889 prohibits trusts, combinations, etc., under heavy penalty and punishment.

MONTANA.

BANKING LAW.

(Revised by GIB A. LANE, Attorney at Law, Billings.)

No limitation upon right to recover money deposited in banks. May become incorporated with not less than three persons, with not less than \$20,000 capital stock, fully paid in in cash, and the fact certified to by the president and cashier and filed with Secretary of State and County Clerk's office where the bank is located. The bank must be authorized to transact business by State Auditor, after certificate of incorporation is published setting forth the provisions prescribed by statute.

No bank can purchase its own stock, or that of any other incorporated company, unless such purchase is necessary to prevent a loss; then it can be held but six months, if it can be sold at par or for what it cost. All powers usually conferred upon incorporated banks are given by statute.

The officers and stockholders are individually liable for all debts contracted while they were officers and stockholders thereof equally to the extent of the stock they hold, the liability ceasing six months after the sale of their stock.

Dividends are declared only from net earnings. Penalties are provided by statute for employes making false entries. The bank forfeits its franchises by failure to comply with requirements lawfully made for sixty days, or for a violation of law, and it must keep on hand an amount equal to 20 per cent. of its liabilities. Savings banks are required to have capital stock of \$100,000, at \$100 per share, paid in in cash. Can not exceed twenty years' duration and existence, with the usual powers of savings banks conferred by statute. Private banks are not prohibited.

COMMERCIAL LAW.

Arrest. A person may be arrested in a civil action on a cause of action arising upon contract when the defendant is about to

depart from the State with intent to defraud his creditors, or when defendant has been guilty of fraud in contracting the debt; also when defendant has removed or disposed of his property, or is about to do so, with intent to defraud his creditors, and in certain other specified cases not depending upon contract or debt.

Undertaking is first required, with two sureties, for costs and charges and damages of defendant, in the sum of \$500, which is defaulted upon the failure of plaintiff to obtain judgment and his not being entitled to an order of arrest. The sureties are to be residents and householders or freeholders of the State.

If the defendant can swear that he has no property to the amount of \$50 not exempt, either concealed or disposed of to his use, or to defraud his creditors, he is entitled to be discharged.

Assignment and Insolvency. There is no insolvency or assignment law, except that an assignment of personal property unaccompanied by actual immediate and continued change of possession of the things assigned is conclusively presumed to be fraudulent as against the creditors, existing and subsequent, of the assignor, or subsequent purchasers or mortgagees in good faith. All assignments of personal property, being in the nature of security for a debt, must be filed in the office of the Clerk and Recorder of the county where the person giving the security resides. Wages of miners, mechanics, salesmen, servants, clerks, or laborers to \$200, if rendered sixty days previous to assignment, are preferred claims.

Attachments. Attachments are allowed upon affidavit showing defendant indebted upon contract due. If the debt is not secured by mortgage, lien, or pledge, or, if so secured, the security has become insufficient or nugatory, the writ issues upon an undertaking, with two or more sureties, approved by the Clerk of Court, in a sum not less than double the amount claimed by the plaintiff, if such amount be \$1,000 or under, but in no case need the undertaking exceed \$10,000. It is conditioned that plaintiff recover judgment, and depends also upon the plaintiff being in fact entitled to an attachment. It is given for the costs and damages that defendant may sustain by reason of the attachment. Sureties need not necessarily be residents or freeholders of the county where action is started, but must be of the State, and they must be approved by the Clerk of Court and must justify.

The writ can be directed to and be served by the Sheriff of any county in which property of defendant can be found. Can not be legally levied upon and made out of property exempt from execution. Redelivery bond may be received from defendant by Sheriff and property released. Creditors first in priority in time are entitled to first levy and precedence. Principal need not sign undertaking. Attachment is also allowed, in case of fraud, before debt is due.

Bills and Notes. In land and foreign bills and notes are negotiable and collectible by and in the name of the holders and owners thereof. Three days of grace apply to all such as mature in the State, and fall due the third day from and after the day of maturity expressed therein. Drafts payable at sight, or checks or funds deposited in bank, not entitled to grace.

Drawers of indorsed bills of exchange are primarily liable until acceptance, after which they are only secondarily liable. Indorsers are entitled to be notified of the presentment and non-payment thereof at maturity to the persons primarily liable for their payment, and are not liable until the presentment and notice thereof, served immediately after the presentment and demand, either by notice served or by certificate of the protest thereof being deposited in the post-office directed to the indorser at his usual place of residence.

Holder may sue all the parties, or any of them, at his option. In connection with the foregoing provisions and requirements, the common law of England, so far as the same is applicable and of a general nature, is the law and the rule of decision, and is in full force in the State, relative to notes and bills.

Chattel Mortgages. The possession of personal property mortgaged must be given the mortgagee at the time the mortgage is executed, or the mortgage be acknowledged and filed with the County Clerk, he being the Register of Deeds where the mortgage resides, if a resident; if not, then where the property is. Affidavit by the mortgagor and mortgagee, or in case either of them is absent, by those present, and of the agent or attorney of those absent, setting forth the fact that affiant is agent or attorney and the absence of principal, is to be made that the mortgage is made in good faith to secure the amount named therein, and without any design to hinder or delay the creditors of the mortgagor. Is then good and valid against the creditors of the mortgagor, or subsequent purchasers or mortgagees, from the time it is filed until the maturity thereof, and sixty days thereafter, but not to exceed one year and sixty days from date of filing, except renewed at or before its maturity, by affidavit showing the date of the mortgage, the name of the mortgagor and mortgagee, date of filing, amount of the debt owing at date of filing such affidavit. This keeps it in life for one year from date of filing affidavit. Annexed to the affidavit, or incorporated therein, must also be the same affidavit as made to the mortgage, to wit: that such debt or obligation was neither made nor renewed or extended to hinder, delay, or defraud the creditors or subsequent mortgagees of the mortgagor. It must be sworn to by the mortgagee and filed. Chattel mortgages are foreclosed by action, but if the mortgage specifies that the property therein described may be sold by the Sheriff of the county where it is, that officer is allowed to foreclose the same.

Deeds of trust, of both real and personal property, executed by any incorporated company, are accompanied by the same affidavit and recorded the same as chattel mortgages.

Commercial Travelers' License Laws. License in each county where business is done of selling any gold or silver or plated ware, or jewelry of any description, by traveling merchants, of \$25 per annum required by the laws; however, license is not now collected from commercial travelers selling by sample, as the collection thereof, and laws compelling the collection, have been held by the Supreme Court of the United States to be unconstitutional.

Corporations. Three or more persons, by certificate signed and acknowledged and filed in the Clerk's Office of the county where the business is to be carried on, can form a corporation for the purpose of manufacturing and mining, with all business incidental thereto, or any other branch of business designed to

aid in the industrial or productive interest of the county and its development, which will continue in existence said corporation for twenty years.

Depositions. Depositions taken out of this State to be used herein may be taken in any action at any time after the service of the summons or the appearance of the defendant therein. Five days' previous notice, together with a copy of the interrogatories intended to be put to the witness, of the intention to sue out from the Clerk of the Court's office a commission directed to any person as Commissioner, or to any Judge or Justice of the Peace, Clerk of the Court of Record, or Notary Public of the county, town, or city where such witness resides, to take his deposition upon such written interrogatories, direct and cross, which deposition must be signed by said witness and certified to the Clerk from which it is issued by the officer taking the same.

Executions and Exemptions. Execution upon a judgment may be issued and levied at any time within six years after the entry of judgment. May be made out of any property belonging to the judgment debtor not exempt. The following property is exempt: Wearing apparel, household furniture, fuel and provisions for family use for two months, one horse, two cows and their calves, two swine, fifty fowls, farming utensils (value \$600), two oxen, or one horse or mule and harness, cart or wagon, food for said stock for three months, seeds or vegetables for planting or sowing to the value of \$200; all implements, tools, and necessary articles used by a mechanic, surgeon or physician, attorney, minister, miner, cartman, teamster, or laborer; earnings of judgment debtor for thirty days preceding levy of execution or attachment, when the same is necessary for the support of his family residing in this State, supported by his labor; homestead of 160 acres of land or less for agricultural purposes, and dwelling thereon, or one-fourth acre lot in city or town, and dwelling thereon, if owned and occupied by any resident of the State; all not to exceed \$2,500 in value. No exemption lies in favor of non-resident, or person not married or the head of a family.

Interest. The legal rate is 10 per cent. per annum, but any rate agreed upon by the parties may be collected, as there is no usury laws. Judgments draw 10 per cent. interest. All indebtedness after due, 10 per cent.

Judgments. Judgments run for six years from date of entry. All judgments entered since March 9, 1889, run for ten years, and are liens upon all of the real estate owned by the judgment debtor, wherever the judgment is docketed, which lien continues for six years. Until levy of execution upon the judgment, personal property is not affected by the judgment. A judgment can be sued over again before the six years expire, if entered prior to March 9, 1889; if entered subsequent to that time, within ten years from date of entry thereof.

Limitations. *First.* An action upon any contract or liability, founded upon any instrument in writing, shall be commenced within eight years from its maturity, if the cause of action accrued since March 9, 1889, otherwise within six years. *Second.* Upon an account, contract, or promise not founded upon a written instrument signed by the party chargeable therewith, shall be commenced within five years from the time the cause of action accrued, if it accrued since March 9, 1889; otherwise, three years. Open and running accounts, time runs from date of last item.

Married Women. A married woman may sue and be sued alone; may make contracts, and do all other acts as if she were single, except to convey her separate real estate, in which conveyance husband must join. She may make declaration as sole trader, and by filing the same, and a list of her separate property, with the County Clerk and Recorder, after application to the Court upon an order made and recorded, then she can do business in her own name, freed from her husband's debts. After so doing, the husband is not liable for her debts; and she may dispose of separate property by will. The law is repealed formerly allowing married women to be executrix, administratrix, guardian, or trustee.

Mortgages. Mortgages of real estate are executed, if by married persons, by signing and acknowledging same before an officer authorized to take acknowledgment of deeds. The wife must be examined separately and apart from her husband, to the effect that she executes the same freely and voluntarily, free from influence or coercion of her husband, and that she does not wish to retract the same. If wife is a non-resident of the State, she need not join in the conveyance. Mortgages are foreclosed by action alone, and are subject to the statute of limitations hereinbefore mentioned; must be recorded with the Clerk and Recorder of the county wherein the real estate is situated.

Proof of Claims, Suits. Claims are sent direct to the attorney, sued upon if necessary; and the proof thereof depends upon whether the same are denied and whether the written instrument or note, or a copy thereof, be annexed to or incorporated in the complaint. If it be, then, unless the defendant denies the same, or the execution thereof, by a verified answer, the genuineness and due execution of the note or written instrument is deemed admitted. In case of a denial, depositions must be obtained of proof thereof. Deposition of the proof of all accounts should be obtained by the attorney suing immediately after the service of the summons, as it is necessary to prove such accounts.

Protests. The instrument of protest, properly authenticated by any Notary Public accompanying any bill of exchange or promissory note, is received here as *prima facie* evidence of the facts therein certified, but may be contradicted by the evidence. After demand of payment and refusal by the maker, drawer, or acceptor of any commercial paper, the Notary making such demand may charge the indorser or any party to be charged, and fix his liability, if in the same town, by notice deposited in the nearest post-office to the party to be charged. If the bill or note is protested in the usual manner by the Notary Public and the certificate of protest is inclosed in letter-form and deposited postpaid in the post-office, directed to any indorser at his usual place of residence his liability will be fixed without serving him with a written notice of presentment, demand, and non-payment.

Suits. Suits are commenced by filing a written complaint with the Clerk of Court; or if a Justice Court it may be by filing a copy of the note, bill, or account on which action is brought. Summons must be issued within one year, and if defendant evade ser-

vice, or is a non-resident, or is a foreign corporation having no agent here, he may be notified by the publication of the summons, but a judgment in the case will be of no value unless some property belonging to the non-resident is attached in the action or a lien acquired in some way thereon. In the District Court the defendant is allowed ten days after the service of the summons if served in the county where suit is brought, but if served out of the county but in the same Judicial District, twenty days; if served elsewhere, forty days, to answer. In Justice Court, four full days after service must elapse before the defendant need to appear.

Taxes. Taxes on all kinds of property (except public property and the property of agricultural and horticultural societies, for educational purposes and places for actual religious worship and public charitable institutions; also hospitals and places of burial if not used or held for private or corporate profit) is subject to taxes for public purposes only. It must be levied and collected by general laws. Such taxes have the force of a personal judgment and are a lien on all of the property subject to taxation, and said lien has the effect of an execution levied on all such as are delinquent, and become delinquent after the first day of December, after which time 10 per cent is added as a penalty, if unpaid. The delinquent tax-list is published on or before the last Monday of each year, and is not less than twenty-one and not more than twenty-eight days after the first publication sale of the real estate is made, and is completed in three weeks, subject to redemption within twenty-four months from date of sale. The purchaser is required, thirty days before the date of expiration of time of redemption, to serve on the owner notice of the expiration of the time of redemption, and the owner has the right of redemption until said notice is served. The purchase money draws 2 per cent per month from date of sale and the purchaser is entitled to 20 per cent on the amount of the purchase price in addition thereto, and \$3 for giving notice of redemption.

Wills. All persons over 18 years of age, of sound mind, including married women, may dispose of all of their property by will. A married woman, however, can not make a will so as to operate to deprive her husband of more than one-third of her real or personal estate without his consent. A will must be in writing unless it be a nuncupative will and (unless it be an olographic will) must be subscribed at the end thereof by the testator thereof himself, or some person in his presence and in the presence of attesting witnesses, or be acknowledged by the testator to them to have been made by the testator or by his authority, and must declare to witnesses that the instrument is his will. Two disinterested witnesses are necessary. They must sign at the end of the will at testator's request and in his presence. An olographic will is one that is entirely made by the hand of the testator himself, subject to no form, and may be made either in or out of the State and need not be witnessed.

NEBRASKA.

BANKING LAW.

(Revised by RICKETTS & WILSON, Attorneys at Law, Lincoln.)

Banking may be by corporation, firm or individual. Bank must furnish to State Auditor itemized statement of assets and liabilities ten days before commencing business. A like statement quarterly thereafter and on demand. Quarterly report must be published in local paper. Must have property, the cash value of which is not less than from \$5,000 to \$50,000 above all encumbrances, varying with population of place where located. Value of real estate, furniture and fixtures not to exceed one-third of required capital. Must keep 15 per cent. of aggregate deposits and immediate liabilities in reserve. In cities of 25,000 reserve must be 20 per cent.

Stockholders liable to double amount of stock held.

Examiners. Appointed by Attorney-General, Auditor and Treasurer. Must be competent and disinterested. May compel attendance of any inhabitant of the State to testify concerning the affairs of any given bank. May inspect all books, papers, etc. False representation to examiner equals felony. All banks examined at least once each year.

Foreign Bills of Exchange. That is between residents of different States, must be protested upon non-payment at maturity. Protest fees are collectible. Notice only is required on domestic bills or notes, and protest fees can not be collected.

Indebtedness. No bank shall permit any person, firm or corporation, including the members thereof, to become indebted to it in an amount exceeding 20 per cent. of its capital stock. Total liability of all stockholders to a given bank must not exceed 50 per cent. of its paid-up capital.

Saving Banks must have \$12,000 paid-up capital. Must hold 5 per cent. of deposits in reserve.

COMMERCIAL LAW.

Actions. Only one form of civil action. Distinctions between law and equitable actions recognized. To obtain a personal judgment, court must have jurisdiction of person as well as subject matter. Service by publication gives jurisdiction of subject matter in actions *in rem* against non-residents.

Affidavits and Acknowledgments may be taken before any person authorized thereto. If taken out of the State, and officer has no seal, his official character must be certified to by an officer with seal. Motions are decided upon affidavits. Affidavits not sufficient to obtain judgment on open account.

Aliens. Non-resident aliens and foreign corporations can not acquire or hold real estate in this State by descent, devise, purchase, or otherwise, except, (1) widow and heirs of aliens may hold land already acquired for ten years from 1889; (2) all who owned land in

1889 may dispose of it during life; (3) a creditor may buy in land when sold to pay a debt he holds and hold such land ten years; (4) foreign railroad companies may hold land necessary to operate railroad; (5) foreign manufacturing company may hold land for corporate purposes; (6) this law does not apply to real estate in any village or city.

Assignments. County Court has exclusive jurisdiction. Sheriff first assignee. Assignment in terms of absolute conveyance and recorded as in sale of like property. Assignment must be filed with Register of Deeds within twenty-four hours. Schedule must be filed with County Judge, showing names and addresses of creditors, with amount and nature of indebtedness to each, outstanding judgments, etc. And list of all property, including that claimed as exempt, real and personal, where situated and the value of same. Upon receipt of such inventory County Judge fixes day for meeting of creditors. Creditors notified by mail. On day appointed creditors may elect a successor to Sheriff, as assignee. Property appraised and sold as upon attachment out of District Court, except personalty, which may be sold at private sale within sixty days. All claims, set-offs, etc., must be filed within thirty to sixty days, in discretion of the court. Distribution of funds within three months from date of appraisal. Assignment void if preference given, except \$100 for work and labor, or if it modifies legal powers of assignee. Assignor may be examined in like manner as a garnishee. (See Attachment.)

Attachment lies against property of non-resident when claim arises upon contract, judgment, or decree, without giving of bond. Lies against property, not exempt, of resident, on contract, express or implied, when it is made to appear by affidavit—that (1) debtor has absconded; or (2) has left the county of his residence; or (3) conceals himself to avoid service of summons; or (4) is about to remove his property or a part thereof out of the jurisdiction of the court; or (5) has converted or is about to convert the whole or a part of his property into money; or (6) has property or rights in action which he conceals; or (7) has assigned, removed, or disposed of, or is about to dispose of his property; or (8) fraudulently contracted the debt or obligation—and in each case with intent to defraud his creditors. Bond in double amount of claim must be given, and affidavit must also show nature of claim or demand, that it is just, and amount that plaintiff ought to recover. Attachments may issue into several counties simultaneously or in succession. Appraisal by officer and two residents. Debtor may regain possession upon giving bond in double appraised value. Perishable property may be sold before trial on order of court. If attachment is dissolved, property or proceeds returned to defendant and plaintiff liable in damages on bond. On claims not due, may be granted by Judge of District or County Court. Bond in double amount of claim must be given, and affidavit must show (1) nature of claim, (2) amount, (3) when due, and (4) that it is just, and one or more of the following: (1) that debtor has sold, conveyed, or disposed of, or (2) is about to sell, convey, or dispose of his property, or (3) is about to remove his property, or a material part thereof, out of the jurisdiction—and in each case with intent to defraud his creditors. Creditors can not be too careful in bringing attachment suits, and should never do so without advice from good counsel.

Corporations. The constitution forbids the passage of any special law conferring corporate powers. Legislature shall provide by general laws for the organization of all corporations.

Any number of persons, not less than three, may become a body corporate by adopting Articles of Incorporation, and filing same with the County Clerk of the County in which its business office is located. Corporations for construction of works of internal improvements must file articles with Secretary of State.

Articles must limit maximum indebtedness which shall not exceed two-thirds capital stock.

Four weeks' notice must be published giving corporate name, nature and place of business, amount capital stock, commencement and termination of corporation, highest amount of indebtedness, managing officers, etc.

Annual notice of indebtedness shall be given. Failure to comply substantially with provisions for organization and publishing annual notice will, after exhausting corporate assets, leave stockholders jointly and severally liable for the company's debts to extent of unpaid subscription of any stockholder to capital stock, and a further sum equal to the amount of stock held; these provisions only apply to such debts as are contracted while there is a default existing in publication of notice.

Courts. *Supreme*, has appellate jurisdiction from District Court and original in mandamus, quo warranto, habeas corpus, and cases relating to revenue. *District*, has original and appellate jurisdiction of causes in general. Exclusive in cases affecting the title to real property. *Terms* fixed at discretion of the judge. *County*, concurrent jurisdiction with District in sums under \$1,000 and over \$200. Exclusive in probate and assignment cases. *Terms* commence first Monday of each month. In cases under \$200, Justice and County Courts concurrent and open all the time.

Curtesy. When any man and his wife shall be seized in her right of an estate of inheritance in lands, the husband shall, on the death of his wife, hold the lands for his life, as tenant thereof by curtesy.

Days of Grace. (See Notes and Bills of Exchange.)

Deeds. Every instrument which is to affect title to real estate, except leases for one year, must be in writing, signed by the grantor, witnessed by one person and acknowledged. Husband and wife not required to acknowledge deed separate and apart from each other. As against subsequent purchasers and encumbrances in good faith must be recorded. Wife must join to cut off her dower interest. If the subject of conveyance is family homestead, both husband and wife must join on deed or mortgage absolutely void. If made in another State or country, it may be executed, witnessed, and acknowledged, either according to the laws of such State or of this State.

Depositions taken on notice to adverse party, which must be served so as to give party twenty-four hours to prepare and sufficient time in addition to reach place of taking by ordinary modes of travel. May be taken of any witness, or even the parties to the suit, but can not be read in evidence if witness is within the county at the time of trial and able to attend court. If there is no appear-

ance of the non-resident defendant notice to take depositions may be served by three weeks' publication.

Divorce. Plaintiff must have been a resident of this state for six months prior to filing petition. *A vincula matrimonii*, granted when defendant has (1) committed adultery since the marriage, or (2) was physically incompetent at the time of marriage, or (3) has been sentenced to imprisonment for three years or more, or (4) has abandoned the plaintiff for a term of two years, or (5) has become an habitual drunkard, or (6) has been sentenced to imprisonment for life. *A mensa et thora*, granted when defendant is (1) guilty of extreme cruelty to plaintiff, or (2) has deserted plaintiff for two years, or (3) in behalf of a wife, when the husband has sufficient ability but refuses or neglects to support her.

Dower. The widow of every deceased person is entitled to dower or the use, during her natural life, of one-third of all the lands of which her husband was seized of. An estate of inheritance at any time during coverture unless legally barred. Sale on execution against husband alone does not bar dower. A non-resident wife has no dower in Nebraska lands.

Estates. The County Court has exclusive jurisdiction in settlement of estates. Legal representatives appointed from friends of the decedent. Or on their neglect a representative will be appointed on application of creditor. Time within which claims must be presented fixed by order of court, of which notice must be given, which shall be not less than six months nor more than two years. Either husband or wife may dispose of estate respectively by will. If no will the estate after payment of debts descends as follows in fee: (1) In equal shares to children, or issue of any deceased child by representation; if no children, to other lineal descendants; (2) if no issue, then to his widow for life, remainder to father, and if no father, to widow in fee; (3) if no issue, widow, or father, then to mother and brothers and sisters in equal shares; (4) if no issue, widow, nor father, and no living brother or sister, then in fee to mother to exclusion of issue of deceased brother or sister; (5) if no issue, widow, father, mother, brother, or sister, then to next of kin; (6) where a child inherits and dies unmarried under age, his share goes to the other children or their issue; (7) if at the death of such inheriting child, who dies unmarried and under age, all other children are dead, all the issue of the deceased children take equally, if of equal degree, otherwise by representation; (8) if no kindred widow inherits in fee; (9) in default of all the foregoing, estate escheats to the State.

Executions may be issued immediately on entry of judgment unless stay taken. Stay of execution may be had on filing bond with approved security in double amount of judgment for periods varying from three to nine months, according to amount under \$100. If judgment \$100 or above, stay is for nine months. Sales under decrees of foreclosure may be stayed for nine months on written request, without bond. Personalty sold on ten days' notice. Realty thirty days. All sales of realty must be for two-thirds of appraised value, and the sale must be examined and confirmed by the court. *Proceedings in aid of.* When execution out of District Court is returned unsatisfied, an order in aid of may be obtained on filing affidavit in District or County Court, setting forth that debtor has property which he unjustly refuses to apply towards satisfaction of judgment. Under this proceeding defendant and other witnesses may be examined touching a disclosure of his property, and if property is disclosed, court may order same applied in satisfaction of judgment.

Exemptions. To heads of families only. Wearing apparel, tools, library, etc. And in addition a homestead not exceeding \$2,000 in value, or in lieu thereof, \$500 of personalty.

Frauds. Deeds of gift are void as to existing creditors, as also all conveyances made with the intent to defraud creditors, which intent is participated in by the grantee; are void as to creditors, regardless of consideration. *Fraudulent transfer.* A debtor who assigns, transfers or disposes of all his property, or the proceeds thereof, with the intent to defraud his creditors, subjects himself to the same penalty as if convicted of larceny of the same property. *Statute of.* The following contracts must be in writing, signed by the party to be charged: (1) Those not to be performed within one year; (2) special promise to answer for the debt or default of another; (3) agreements upon consideration of marriage, except mutual promises to marry; (4) special promise of executor or administrator to answer damages out of his own estate; (5) sale of goods and chattels for \$50 or more, unless, *first*, there is a written memorandum signed by party to be charged; or, *second*, unless buyer accept and receive the goods or some part thereof; or, *third*, unless the buyer shall at the time pay some part of the purchase money.

Garnishment may be before or after judgment. Affidavit must show that the party garnished has property, or rights in action of the defendant under control in the county. Garnishee must answer concerning property or rights in action, belonging to defendant when garnished, or since received, and is accountable for same.

Interest, seven per cent when no rate specified. Judgments and decrees bear contract rate, or 7 per cent. A higher rate of interest after due is in the nature of a penalty and can not be enforced. Above 10, is usury. Principal only may be recovered in usurious contracts. Open accounts draw interest after six months from date of last item.

Judgments. (See Executions and Liens.)

Liens. *Judgments* of District Courts, and of lower courts transcribed to District Court, are liens upon realty of defendant appearing of record in defendant's name, in that county. *Mechanic's, material-man's, and laborer's.* Obtained by filing in office of Register of Deeds sworn itemized statement of material furnished or labor done within four months from date of last item, if party contracts with owner. Within sixty days if it be a sub-contractor. Liens, so created, date from date of first item, and are good till two years after date of last item. Judgment liens are subject to prior, unrecorded conveyances.

Limitations. Verbal contracts, four years; written contracts, and foreign and domestic judgments, five years. To recover real property and foreclose mortgages, ten years. Trespass to realty or personalty, replevin, torts, and actions founded on fraud, four years. Injury to character, assault, malicious prosecution, false imprison-

ment, and to recover a penalty, one year. Official bond and undertaking, ten years. Foreign judgment, five years after judgment of revivor.

Married Women. All property, real and personal, owned at the time of marriage, or which afterwards comes to her, by descent, devise, bequest, or gift of any person except husband, constitutes her sole and separate property, and not subject to debts or control of husband. May contract in reference to separate property and dispose of same by will or deed without husband joining. She may carry on business in her own name and her earnings are not subject to husband's control or debts. May sue and be sued. To be binding her obligations must relate to her separate estate or be incurred in transacting her own business. As surety or guarantor, she does not bind her separate estate without contract to that effect. May bind separate estate for husband's debts by mortgage on same. Husband is not liable for debts contracted before marriage.

Mortgages. *Real*, must be recorded. Foreclosure only by suit. No redemption of lands sold on foreclosure after confirmation. *Chattel.* Void, as to creditors, if mortgagor is allowed to retain possession and sell from the stock. Also void, except as to parties, unless original or a copy is filed with County Clerk, and must be refiled every five years. May be foreclosed without suit, after twenty days' notice in newspaper, by sale at public auction. Disposing of, or removing mortgaged property from county without consent of mortgagee, and with fraudulent intent, equals felony. *Conditional sales.* Void except as to parties thereto, unless in writing and copy filed in office of County Clerk with vendor's affidavit, giving purchaser's name, description of property and vendor's interest therein. Must be refiled thirty days before expiration of five years.

Notaries Public. Notarial Certificates made after August 1st, 1893, must show the date on which the Notary's Commission expires.

Notes and Bills of Exchange. Paper commonly negotiable by law merchant negotiable here. Purchase after maturity conveys only equities of vendor. Purchase before maturity with notice of defect is also subject to equitable defenses. Three days' grace allowed. If date of maturity or third day of grace falls upon a Sunday or a legal holiday, demand and protest may be on the following business day.

Replevin. Used to recover personalty or its value. Together with damages for its detention. Affidavit must show (1) a description of the property, (2) that plaintiff is the owner or has a special ownership or interest therein, stating the facts, and that he is entitled to immediate possession, (3) that the property is wrongfully detained, and (4) that the same was not taken on an order of replevin or any seizure or final process against the plaintiff, but if taken upon execution the affidavit must show it exempt.

Taxes. *Taxes upon realty.* Lien from April first of current year and perpetual thereafter. Become delinquent May first of following year. *Upon Personalty.* Lien on all personalty owned by tax debtor from October first of year of levy. Delinquent from February first following. Certificate of tax sale may be foreclosed as mortgage within five years from date of sale. May be redeemed by owner within two years upon payment of principal with twenty per cent interest per annum. Purchaser at tax sale entitled to deed at end of two years. Under holdings of Nebraska courts, tax deeds are of little value in creating title to land.

Wills. Persons of full age and sound mind may dispose of property, real or personal, by will. Property not so devised descends according to the law of *Estates* (q.v.) In either case the property is subject to the debts of the decedent. Married women are under no disability by reason of their marriage as respects the devising of their estates. Wills must be signed by the testator in the presence of two witnesses signing in his presence and in the presence of each other at the request of the testator.

Nuncupative wills, *causa mortis*, are valid if proven by three witnesses, and reduced to writing within six days after being made.

Wills do not affect title to property until probated.

NEVADA.

BANKING LAW.

There are no provisions in the constitution or laws of the State, and no examination is provided for. There are no requirements to make public statements showing the condition of banks, and none are made. Nor are the banks obliged to make returns to any official. Bankers may do as they please in Nevada. Integrity in the banker is the only safeguard.

COMMERCIAL LAW.

Acknowledgments may be taken within the State by a Judge or Clerk of a Court having a seal, or by a Justice of the Peace or Notary public. If taken by a Justice of the Peace in any county in the State other than the county in which the land is situate, a certificate of the County Clerk is necessary, showing he was an acting Justice when the acknowledgment was taken. If without the State, but within the United States, by a Judge or Clerk of a Court having a seal, or some Notary Public or Justice of the Peace, or by any Commissioner appointed by the Governor of this State for that purpose. Provided, that when the acknowledgment is taken by a Justice of the Peace, the same shall be accompanied by the certificate of the Clerk of a court of record of the county, having a seal, as to the official character of the Justice and the authenticity of his signature. If without the United States, by some Judge or Clerk of any Court of any State, Kingdom or Empire having a seal, or by any Notary Public therein, or by any Minister, Commissioner or Consul of the United States, appointed to reside therein.

Assignments and Insolvency. Insolvent debtors may be discharged from their debts by complying with provisions of insolvent laws. An assignment of insolvent debtor, not in compliance with insolvent laws, is void as to creditors.

Attachments. Writ of attachment may be issued with summons, or at any time afterward on affidavit and bond. In an action upon a contract for the direct payment of money, made, or by the terms thereof payable, in this State, which is not secured by mortgage, lien, or pledge upon real or personal property, situated or being in the State; if so secured, when such security has been rendered nugatory by the act of the defendant; or in an action upon a contract against a defendant not residing in this State. In an action by a resident of the State for the recovery of the value of property where such property has been converted by a defendant without the consent of the owner. Where the defendant has absconded, or is about to abscond, with intent to defraud his creditors. Where the defendant conceals himself so that service of summons can not be made upon him. Where a defendant is about to remove his property, or any part thereof, beyond the jurisdiction of the court with the intent to defraud his creditors. Where a defendant is about to convert his property, or any part thereof, into money with intent to place it beyond the reach of his creditors. Where a defendant has assigned, removed, disposed of, or is about to dispose of his property, or any part thereof, with the intent to defraud his creditors. Where a defendant has fraudulently or criminally contracted a debt or incurred the obligation for which suit has been commenced. Garnishee process may be had in aid of attachment. A fraudulent or absconding debtor, or one who conceals his property, or removes or disposes of it with intent to defraud his creditors, may be arrested on affidavit of the fact made; surety in not less than \$500 being given by the plaintiff. The Clerk of the Court shall issue the writ of attachment upon receiving and filing an affidavit by or on behalf of the plaintiff, showing the nature of the plaintiff's claim, that same is just, the amount which the affiant believes the plaintiff is entitled to recover, and the existence of any one of the grounds for an attachment above enumerated.

Courts. Terms and Jurisdiction. District Courts have original jurisdiction in all cases in equity, also in law, when the title or possession of land or mining claims may be involved, or legality of any tax, etc., also in actions to foreclose mechanics' lien; and in all cases in which the demand, exclusive of interest, or the value of the property in controversy exceeds \$300, also in all cases relating to estates of deceased persons, and persons and estates of minors, insane persons, etc. Justice's jurisdiction, \$300, exclusive of interest, and concurrent jurisdiction with District Courts in foreclosure of mortgages and liens, not exceeding \$300, exclusive of interest.

Executions. Stay of Execution; Judgments. The laws of Nevada on these points are similar to those of California [see *ante*], except that when redemption is made of real estate, 18 per cent. must be paid in addition to purchase money.

Exemptions. Homestead, \$5,000. \$50 of the earnings of the debtor, if earned thirty days preceding, if it is made to appear necessary for the support of the debtor, or his family. Personal and mining property, tools, implements, etc., exempt same as in California [which see].

Interest. The legal rate is seven per cent. per annum, but parties may contract in writing for the payment of any other rate. After a judgment on such a contract, only the original claim shall draw interest.

Limitations of Suits. Open or store account and contract not in writing, two years; upon contract or instrument of writing, four years; recovery of mining claims, two years; real actions, or judgment or decree of any court, five years. The above applies to contracts before March 2, 1877; to contracts since that date (the above periods), two years extended to four, and four and five respectively to six years. Revivor: Acknowledgment or new promise in writing.

Married Women. All property of the wife, owned by her before marriage, and that acquired afterward by gift, bequest, devise or descent, her separate property. In Nevada, under the statute of 1873, the wife has absolute power over her separate property, and may dispose of the same without the consent of her husband. All other property acquired during coverture by husband or wife, common property, but controlled by husband. Upon a dissolution of the community by the death of the husband, the homestead set apart by the husband and wife, or either of them, goes to the wife and minor children, and if there are no minor children, to the widow. The husband may dispose of one-half of the common property by will, exclusive of the homestead. The other half of the community property goes to the wife, subject to administration and debts of the husband.

Mortgages must be recorded. No mortgage of personal property is valid unless possession is delivered to and retained by the mortgagee, except that growing crops and other personal property may be mortgaged by the execution, acknowledgment and recording of a mortgage instrument without such possession. Mortgages of real estate can only be foreclosed by action for foreclosure.

Notes and Bills of Exchange. Commercial paper includes promises to pay to order, or bearer, without conditions, for a sum certain and at a time certain. No requirement respecting place of payment; but, if place of payment is named, demand should be made before protest at place named. Protest and notice will hold the indorser, and the general statute of limitation, six years, and on open account, four years, is the limitation of the right of action. Fifteen per cent. damages are allowed on domestic, and twenty per cent. on foreign bills protested. Grace is not allowed on sight drafts.

Suits. Practice is under a Code, and there is but one form of action, known as a civil action, and commenced by filing complaint with the Clerk of the Court and the issuance of a summons. Service on non-residents may be had by publication.

Taxes are a lien upon the property assessed and the real estate of the owner thereof from the first Monday of March in each year. Suits for delinquent taxes may be commenced by direction of the County Commissioners, and there is redemption of real estate sold at tax sale in the same manner as realty sold under ordinary execution.

NEW HAMPSHIRE.

BANKING LAW.

(Revised by E. S. & H. A. CUTTER, Attorneys at Law, Nashua.)

Banks can be chartered only by a special act of the legislature. Building and Loan Associations may be organized as voluntary associations. Once every year a thorough examination shall be made into the condition and management of every bank, building and loan associations and trust companies in the State by one of the three Bank Commissioners. The Commissioners shall on or before the 1st day of October, annually, file their report with the Secretary of State. They shall give in their report a detailed statement of all the items of expense of each institution, with the names of the treasurer and clerks, the salary of each, with the kind and amount of stocks and bonds held by each, with the par value thereof, and the cost and the market value at the date of examination. The cashiers of every State bank, and every association or partnership formed for the purpose of transacting such business as is usually transacted by banks, shall, on the first Monday of March, June, September and December in each year, make a statement of its condition on said day, specifying in separate columns the capital stock actually paid in; debts due the bank secured by pledge of its stock; value of real estate belonging to the bank; amount of debts due from directors; amount of specie in the vaults; amount of bills of other banks on hand; amount of deposits in the bank; amount on deposit in other banks for the redemption of its bills; and the amount of bills of the bank then in circulation; which statement shall be signed and sworn to by the cashier, and returned to the Secretary of State. The trustees of Savings banks shall make a thorough examination of the affairs of their respective banks once in every six months, and a report of such examination, signed by a committee of the trustees, shall be returned to the Bank Commissioners, and a copy of the report published in a newspaper published in the place where such bank is established; or, if there be no newspaper in such place, then in a newspaper at the nearest place. Savings banks may invest in any class of securities, except in loans to any person or corporation exceeding ten per cent. of its deposits; in loans outside of New England, or in bonds secured by mortgages on real estate situate outside of New England, exceeding forty per cent. of its deposits; in loans or bonds secured by mortgages on unimproved real estate situate outside of New England; in loans secured by pledges of securities in which it can not invest; in stocks or bonds of any one corporation exceeding ten per cent. of its deposits; in stocks in any corporation located outside of New England which has not earned and regularly paid dividends during the then next preceding five years, or during the then next preceding two years in a New England corporation; in the stock of any company, except National banks, organized under the laws of another State, which is engaged in the business of selling or negotiating loans, stocks, etc.; in bonds, notes, etc., of any county, city, town, or district outside of New England whose net indebtedness exceeds five per cent. of its last valuation; in bonds, notes, etc., of any other corporation, except railroads, whose indebtedness exceeds the amount of its capital.

COMMERCIAL LAW.

Acknowledgments of deeds or other conveyances of real estate must be made before a Justice, Notary Public or Commissioner, or in foreign countries before a Minister or Consul of the United States. The signature of the grantor must be attested by two witnesses.

Assignments and Insolvency. Assignments for benefit of creditors to be filed in the Probate Court of the county in which debtor resides. Debtor, within ten days thereafter, shall file list of creditors, verified by oath, and within fifteen days a schedule of his property. Involuntary assignment made by debtor upon petition of creditors whose claims amount to \$300 and upwards; assignee to be appointed upon notice and upon the recommendation of two-thirds in numbers and a majority in value of those creditors who filed statement of their accounts. Creditors to file statements of their accounts upon oath within two months, and all objections thereto to be made within four months after the filing of the assignment. Claims may be proved any time before final dividend, and objections to such claim must be made within thirty days thereafter. Assignee shall immediately give bond, and return inventory of property. Assignee to render account within six months. Wages of clerks, domestics, and other laborers to be paid in full, not exceeding \$50, for services rendered within six months prior to the beginning of insolvency proceedings. And taxable costs of all suits begun in good faith which were dissolved by the proceedings. Debts due the United States and taxes. Debtor given a full discharge from all his debts upon the written approval of two-thirds of his creditors in number and amounts, and without such approval upon paying fifty per cent. of his debts.

Attachments of all-real and personal property may be made on the original writ, and constitute a valid lien on the property for thirty days after judgment, within which period the execution must be levied to preserve and perfect the lien. All attachments take precedence in order of priority, except in case of liens of builders, contractors, etc., when they take precedence in the order of priority of the lien. Trustee process (analogous to garnishment in other States) may be used to reach money or credits of the defendant in the hands of another. Save as against claims for necessities the wages of the defendant up to \$20 are exempt from such process. In actions on contracts where debt exceeds \$13.33, defendant may be arrested on affidavit of plaintiff that he (defendant) has concealed his property or is about to leave the State to avoid payment of his debts.

Bills of Lading. There has been no legislation on this subject. The common law obtains. Our courts have held that a bill of lading represents the property and is transferred by delivery merely, without regard to indorsement or word of negotiability.

Collateral. There has been no statutory enactments on this subject. A transfer of stock must be recorded in the books of the corporation to be valid against attaching creditors of the pledgor or assignor.

Contracts. All contracts made by a person under guardianship, or by a person alleged to be insane, or a spendthrift, after service of papers to secure guardianship, are void. All gambling contracts and contracts made on Sunday are void. In all contracts for labor ten hours labor shall be considered a day's work.

The ancient law, known as the statute of frauds, is re-enacted on our statute books. Under that act all contracts for the sale of land shall be in writing; no action shall be brought to charge an administrator personally, nor to charge a person to answer the default of another, nor upon an agreement made in consideration of marriage, or that is to be performed in one year, unless such contract shall be in writing.

No contract for the sale of goods for the price of \$33 dollars or upwards shall be valid, unless the buyer shall accept and actually receive a part of the goods so sold, or give something in part payment to bind the bargain, or unless there be some note in writing signed by the party to be charged.

No assignment of wages to be earned in the future shall be valid unless it shall be accepted in writing and a copy filed with the clerk of the town where the party making it resides.

Corporations. Corporations can be chartered by the Legislature. Voluntary corporations can be formed for any purpose except banking, life insurance, and railroading. Five persons may associate themselves together under written articles of agreement, which articles shall set forth the corporate name, its object, place of business, and amount of capital, which may be anywhere from \$1,000 to \$1,000,000, with the par value of the shares at not less than \$25 or more than \$500. This agreement shall be recorded in the office of the Secretary of State, and in the office of the clerk of the town where the business is to be carried on.

Every corporation which shall not carry on its business in the State, obtaining a charter here, shall pay a charter fee as follows: 1 per cent. on the first \$100,000 of its capital, $\frac{1}{2}$ of 1 per cent. on the capital between that and \$1,000,000, and $\frac{3}{4}$ of 1 per cent. on the balance. The said charter fee shall be paid when the articles are recorded.

The clerk of every corporation shall be and continue a resident of the State. And at least one of the directors shall be an actual resident of the State, if the corporation has any stockholders resident in the State. No corporation shall sell or dispose of any of its stock at a price less than the par thereof. A note is not payment therefor. Cumulative voting is not permitted. Stockholders in all corporations except banks and railroads shall be liable for all the debts of the company until the capital is fully paid, and a certificate under the oath of the treasurer and a majority of the directors, shall have been recorded with the town clerk. Every corporation except banks, railroads, and insurance companies, shall annually in May, return a sworn report, signed by the treasurer and a majority of the directors, of its assets, liabilities, and any assessments, which report shall be recorded in the office of the Secretary of State. A failure to make such return renders the officers personally liable for all the company debts.

Courts. Terms and Jurisdiction. Supreme Court, holding from two to four terms a year in each county, has original jurisdiction of all actions, and full equity powers. There are Probate Courts with the usual jurisdiction in every county, and jurisdiction in cases of assignment. Justices of the Peace have jurisdiction up to \$13.33, and can render judgment upon confession up to \$200. Police Courts have jurisdiction to the amount or \$100.

Depositions. The party proposing to take depositions shall give the opposite party a notice in writing, signed by a Justice of the Peace, which shall state the time and place of such taking. They are taken before a Justice of the Peace or a Commissioner. They can only be taken by written questions and answers proposed by counsel and administered by the magistrate. Objections are minuted on the deposition by the magistrate, but he does not pass upon the validity of such objections. Depositions shall be signed by the deponent, and he shall be sworn to testify to the truth, the whole truth, and nothing but the truth. They must be sealed up by the magistrate and directed to the court before whom they are to be tried.

Executions may be taken twenty-four hours after judgment, and are returnable before Justice's and Police Courts in sixty days; before Supreme Court, at the next trial term of court. A review may be granted by the court when injustice appears to have been done through accident, mistake or misfortune. Real property taken under execution may be redeemed within one year.

Exemptions. Homestead to the value of \$500; necessary apparel and bedding and household furniture to the value of \$100; Bibles and school books in use in the family, library to the value of \$200; one cow, one hog, and one pig, and pork of same when slaughtered; tools of occupation to the value of \$100; six sheep and their fleeces, one cooking stove and its furniture, provisions and fuel to the value of \$50, and one sewing machine; beasts of the plow not exceeding one yoke of oxen, or a horse, and hay not exceeding four tons.

Interest. At the rate of six per cent. per annum. If any person, upon any contract, receives interest at a higher rate than six per cent., he forfeits three times the excess to the person aggrieved and suing therefor; but no contract is invalidated by reason of any stipulation for usurious interest; the money actually advanced may be recovered with legal interest. Interest upon all judgments is at the rate of six per cent. per annum. Interest upon unpaid taxes is at the rate of ten per cent. after the 1st Day of December following their assessment, until sale of property taxed, and twelve per cent. thereafter until time of redemption. Upon current accounts interest commences from date of demand for payment, unless controlled by the custom of trade, which is a question of fact to be determined by a trial thereof.

Judgments are not a lien upon real estate, except when attachment is made on the original process, when a lien exists for thirty days after judgment. Six per cent. annual interest allowed on judgments. In actions on mortgages the judgment is conditional, that if the mortgagor pay the amount of the judgment within two months, the judgment shall be void.

Limitations of Suits. Accounts and simple promissory notes six years after maturity; judgments, sealed instruments, and notes secured by mortgage, twenty years. Time of debtor's absence from the State is excluded. Verbal acknowledgment and promise to pay is sufficient to revive the debt.

Married Women retain all property owned by them before marriage, or acquired afterward in any way except through property of the husband, to their sole and separate use, as if unmarried. All their contracts in relation to such property are valid and binding, and all their other contracts are binding, except those made with their husbands, or as sureties or guarantors for their husbands, or for and in behalf of their husbands. Upon the death of wife, the husband is entitled to substantially the same share of her estate as she would be of his estate in case of his death. They are liable for debts contracted while single, and their property may be attached to pay them. They are also liable for their torts before marriage in relation to their separate property. The husband is not liable for the wife's ante-nuptial debts, and can not convey his improved real estate so as to bar his wife's right of dower and homestead without her consent. Married women of the age of twenty-one years may dispose of their property by will, but not to affect husbands' rights, nor can they convey so as to deprive the husband of his right.

Mortgages, real estate; a conditional conveyance shall be ineffectual unless the sum to be paid, or the thing to be done, is stated in the conveyance. All mortgages shall be signed in the presence of two witnesses and acknowledged before a Justice of the Peace or a Notary Public. Mortgages may be foreclosed, first, by entry under process of law into the premises and continued actual possession for one year. Second, by peaceable entry in the presence of two witnesses and continued actual possession for one year. The affidavits of entry shall be recorded and published in some newspaper published in the county. Third, by the mortgagee in possession taking formal possession under the second method. Mortgages of personal property, to be effectual, the mortgagor and mortgagee must take and subscribe the following oath: "We severally swear that the foregoing mortgage is made for the purpose of securing the debt specified in the condition thereof and for no other purpose whatever, and that said debt was not created for the purpose of enabling the mortgagor to execute the said mortgage, but is a just debt, honestly due and owing from the mortgagor to the mortgagee."

The mortgage must be recorded in the office of the clerk of the town where the mortgagor resides, and in case of the non-residence of the mortgagor, it must be recorded in the office of the clerk of the town where the property is situated. The mortgagor may retain possession of the property. The mortgagor can not sell the mortgaged property unless the mortgagee consents in writing on the margin of the mortgage, which shall be recorded where the mortgage is recorded. The penalty of a sale without such consent, is double the value of the property. A fine of \$1,000 can be imposed if the mortgagor conceals the mortgaged property. Mortgages can be foreclosed by auction sale thirty days after maturity, by giving the mortgagor four days' notice of the time and place of the sale. This law not applicable to furniture leases.

Notes and Bills of Exchange. No particular form of words necessary to constitute a negotiable promissory note. The words "value received" not essential. Bills of exchange must be absolute as to amount, event, fund and person. No requirements as to place of payment. Demand notes must be protested within sixty days from day of their indorsement to hold indorsers. All negotiable paper, save that payable on demand, is entitled to three days of grace; and all such paper maturing on February 22, May 30 or July 4, or on the following day if either of these days occur on the Sabbath or on Sunday, Thanksgiving, Fast, Christmas Day, Labor Day, and biennial election day, is due and payable on the next preceding day, not being one of these days, and must be so noted and protested.

Suits. If either party resides in this State an action should be brought in the county in which one of them resides. When both are non-residents, the action may be brought in that county where property of the defendant can be attached.

Taxes become a lien upon the realty simultaneously with their assessment (April 1, of each year). One year from the day of sale is allowed in which to redeem land sold for taxes, costs of sale and interest at the rate of twelve per cent. per annum being added.

Wills. Every person, including married women, of the age of twenty-one years, of sane mind, may dispose of their property by will. No will is effectual to pass property unless it is in writing, signed by the testator or by some person in his presence and by his express direction, and attested in his presence by three or more credible witnesses. Can be in type writing. A seal is not necessary. Foreign wills valid in the State where executed may be allowed here. Every child or grandchild, or every child born after the decease of the testator, shall be entitled to his distributive share in the estate, if not named in the will.

A foreign will is proved here by the production of an authenticated copy thereof, together with an authenticated copy of the probate thereof.

NEW JERSEY.

BANKING LAW.

(Revised by CHAS. EWAN MERRITT, Attorney at Law, Mount Holly.)

There are no provisions in the constitution as to banks; but the statute provides that any number of persons, not less than seven, citizens of the State, may associate to establish offices of discount, deposit and circulation, on the terms and conditions, and subject to the liabilities prescribed in the act; and said association shall be denominated a "bank" or "banking company;" but the aggregate amount of the capital stock of any such association shall not

be less than \$50,000, nor more than \$2,000,000. The persons so associating shall, under their hands and seals, make a certificate, by the terms of which such association shall be bound, which shall specify the name assumed to distinguish such association; the place where the business is to be carried on; the amount of the capital stock, and the number of shares; the names and places of residence of the shareholders, and the number of shares held by each of them, and the period at which such associations shall commence and terminate, which shall not be for a longer term than twenty years. This certificate shall be proved or acknowledged in the same manner as deeds, and recorded in the office of the Secretary of State and in the Clerk's office of the county where the office of such association shall be established; but it shall not be lawful for any association to locate their office in any other than one of the county towns, or incorporated cities, boroughs, or towns, except by permission of the Commissioner of Banking and Insurance, to whom all matters relating to banks are committed, and in whom lies the right of examination. The legislature may dissolve any company created by virtue of this act. The Chancellor may order an examination on application of creditors or stockholders. Banks usually publish a statement; but the act does not seem to require it. They make annual reports to the State Treasurer. Savings banks may invest in United States bonds, bonds of this State; bonds of any State, city or county which has not defaulted on principal or interest within ten years; provided that in case of city or county, the total indebtedness is limited to ten per cent. of assessed value, and in bonds secured by mortgages, which shall be a first lien on real estate.

COMMERCIAL LAW.

Acknowledgments of deeds are made within the State before the Chancellor or a Justice of the Supreme Court, a Master in Chancery, Judge of the Court of Common Pleas, Commissioner of Deeds, Surrogate of County, or Register of Deeds; without the State, before a Justice of the Supreme Court of the United States, or a District Judge of the same, or a Judge or Justice of the Supreme or Superior Court of the State, District or Territory, or before any Mayor or Chief Magistrate of any city, or before a Judge of the Court of Common Pleas or County Court of such State, District or Territory, or Commissioner for New Jersey, or by any officer authorized at the time of such proof or acknowledgment, by the laws of the State wherein the same shall be made or taken, to take the acknowledgment of deeds of lands lying and being in such State. In case the acknowledgment is made before a Mayor or Chief Magistrate, the certificate must be attested by the seal of the city; if before a Judge of the Court of Common Pleas or County Court, or other officer, it must be attested by seal of such court, and certified by the Clerk of the Court. If before an officer not enumerated but authorized as above stated, it must be certified that he is such officer and authorized to take acknowledgments in the State in which the acknowledgment was taken. In foreign countries acknowledgment or proof may be made before any court of law, Notary Public, Mayor, or chief magistrate, or any Ambassador, Consul, Consular Agent, or other representative of the United States.

Assignments and Insolvency. The insolvent laws provide for the discharge of a person under arrest for debt or damages on his delivering up all his real and personal property to his creditors. Assignments by debtors for the benefit of creditors must be without preference, and all others are void. Debtor must annex sworn inventory. Wages of servants, clerks and laborers up to \$300 each are preferred claims. Assignee must file list of creditors at the end of three months, and make dividends at the next term of court. Creditor not presenting claim does not share in the dividend, but retains his right of action against the debtor.

Attachment. A creditor may attach the property of a non-resident or absconding debtor by making oath to the fact, and to the amount of his claim, before any officer authorized to administer oaths or affirmations. Attachments are for the benefit of all applying creditors. Debts not due may be proved under any attachment issued, and receive their *pro rata* dividend. No attachment can issue against the members of a copartnership, where one of them resides in the State, nor of the wages of a non-resident employé at the suit of a non-resident creditor. Garnishment can be effected only in attachment cases. Attachment in the nature of Master's process may issue against a resident debtor in cases in which he could be brought into court upon a *caus ad respondendum* in an action upon contract.

Corporations are organized under General Acts for various purposes by the execution and acknowledgment of a certificate showing: (1.) The name of the corporation. (2.) The place or places where the business is to be conducted and the objects for which the corporation shall be formed. (3.) The total amount of the capital stock (not less than \$2,000); the amount with which they will commence business (not less than \$1,000); the number of shares into which the same is divided, and the par value. (4.) The names and residences of the stockholders, and the number of shares held by each. (5.) The periods at which the corporation will commence and terminate, not exceeding fifty years. This certificate is recorded in the Clerk's Office of the County where the principal place of business is, and afterwards filed in the office of the Secretary of State. Foreign corporations may do business here, the Act providing, however, the method by which they may be sued.

Courts. Terms and Jurisdiction. Circuit Courts and Courts of Common Pleas, holding three terms a year in each county, have jurisdiction in all civil cases, but to carry costs must recover at least \$100, except that the Court of Common Pleas has no jurisdiction where title to lands comes into question. The Supreme Court, holding three terms a year at Trenton, has also original jurisdiction in all cases, but must recover \$200 to carry costs. Court of Chancery has exclusive equity jurisdiction, and sits at Trenton three times a year. Justice's and City District Court jurisdiction, co-extensive with County, \$200. The Court of Errors and Appeals has no original jurisdiction, but hears appeals from Court of Chancery, and Prerogative Court, and writs of error from Supreme Court and Circuit Courts.

Original from

UNIVERSITY OF WASHINGTON

Depositions. Of material witness residing in the State, who is ancient, or very infirm, sick, or about to go out of the State, may be taken *de bene esse*, before a Judge of the Supreme Court, Judge of the Court of Common Pleas, Supreme Court Commissioner, or Master in Chancery, on notice to adverse party. Of material witness residing out of the State by virtue of a commission issued out of the Court before which the action is pending, either on interrogatories or orally upon notice. The Commissioner must first take and sign an oath, "faithfully, fairly, and impartially to execute the said commission" before any officer authorized to take an oath. Such depositions may also be taken before a Judge of the Supreme Court, or District Court, or Court of Common Pleas, Commissioner of Deeds appointed by the Governor of the State of New Jersey resident where the witness is, on notice of one day, exclusive of Sunday, for every fifty miles of travel and not less than ten days in all. If the witness resides on the Pacific Coast, the Court fixes the length of notice. If in a foreign State or kingdom, not less than forty days' notice must be given.

See Jefferey's Law Precedents, p. 260, et seq., and Dickinson's Chancery Precedents, p. 217, et seq., for forms and instructions.

Executions issue immediately upon a rendition of judgment, and are returnable either in term or vacation. A sale under execution, issued upon a junior judgment, discharges the lien of a prior judgment on which no execution has been issued and levy taken. The proceeds are applied to the payment of the execution upon which the sale is had. There is no stay of execution, except on those which are issued out of Justice's Courts. In these courts thirty days are allowed on sums up to \$15; three months up to \$60, and six months on all sums over \$60, by debtor giving good security. There is no redemption after sale in any case. Where executions have been returned unsatisfied, if the sum due on a judgment amounts to \$50 or upward, the Court out of which said executions issued may, on application of the judgment creditor, make an order compelling the debtor to appear before the officer named and make discovery on oath concerning his property. The judgment creditor shall present to the Court a petition verified by oath, in which he shall state the amount due on said execution, the return made, and his belief that the debtor has property in his own right over and above that which is reserved by law. Arrest on a *capias* can only be had in case of fraud or attempted removal or disposal of property with intent to defraud creditors.

Exemptions. The lot and building thereon, owned and occupied by the debtor, being the head of a family, to the value of \$1,000, providing that in the debtor's deed it is set out that the property is intended for a homestead, or else that notice to such effect is filed in the County Clerk's office. Personal property to the amount of \$200, besides wearing apparel, owned by a resident head of a family, appraised by three persons appointed by the sheriff; and the widow or administrator of a deceased person may claim the same exemption of \$200 as against the creditors.

Interest. Legal interest on debts and judgments, six per cent. Usury is punishable by forfeiture of all interest and costs. Interest on an open account accrues on each item from its date, as at common law.

Judgments become a lien on lands from time of actual entry, and so remain for twenty years, unless cut out by an execution issued on a younger judgment, under which a levy is taken. Where there are several judgments, that under which the first levy is taken takes priority. Judgments recovered or docketed in the Supreme Court are a lien on all lands of defendant within the State.

Limitations of Suits. Contracts not under seal, six years; real actions and judgments, twenty years; notes secured by mortgage and contracts under seal, sixteen years. Revivor: Part payment or new promise or acknowledgment in writing.

Married Women hold and control their property, real and personal, precisely as if unmarried. But a married woman can not become an accommodation indorser, guarantor, or surety, nor can she convey or incumber real estate without her husband, except she is living in a state of separation from her husband, and there has been no issue of such marriage, or her husband is unable to join through lunacy or other mental incapacity, or in case an assent to the same has been signed and acknowledged by the husband. A married woman may make a will of her separate estate as if she were sole, but can not defeat her husband's interest in her real estate, although she can make absolute disposition of her own private personal property without regard to her husband. Widow takes dower in one-third of real estate of which her husband was seized at any time during coverture, to which she has signed no deed of release.

Mortgages must be under seal, and the wife must join. Foreclosure is by suit in equity. Chattel mortgages, unless accompanied by immediate delivery and followed by continued change of possession of things mortgaged, are absolutely void as against creditors and subsequent *bona fide* purchasers and mortgagees, unless said mortgage has been acknowledged or proved according to law, and recorded in a book for that purpose. Chattel mortgages must have an affidavit annexed, setting out the interest of the mortgagee, consideration of the mortgage, and the amount due and to grow due thereon; said affidavit to be made by the holder. Chattel mortgages upon household furniture in the use of the family, unless given for the purchase thereof, must be executed and acknowledged by both husband and wife.

Notes and Bills of Exchange. Promissory notes, bills of exchange, checks and drafts, are on the same footing. May or may not be payable at fixed place. Due diligence must be used to find the maker, if no place is stated. Inland bills of exchange are, in general, subject to the law of foreign bills; they must be protested. Sight bills or drafts, except those on banking associations, have three days' grace. The action required to hold indorser is the same as under the general mercantile law. Drafts and notes due on a legal holiday are payable the day after such holiday, and notice of non-payment may be given within twenty-four hours later. If the legal holiday should fall upon a Sunday or Monday, bills are payable on Tuesday, and notice may be given on Wednesday. Legal holidays are: January 1, February 22, May 30, July 4, first Monday in September (to be known as Labor Day), December 25, Thanksgiving Day, and all days on which a general election for members of Assembly may be held. If any of these days happen on Sunday the holiday is kept Monday. Every Saturday from

twelve o'clock at noon to twelve o'clock at midnight is a half-holiday, with same provision as to payment of notes.

Suits are commenced by writs of summons, *capias*, warrant, or attachment. Service by publication may be made in equity only, and in common law courts, in case of a foreign corporation, if service can not be made on officers or agents, directors, clerks or engineers.

Taxes are a lien for two years from the time they become payable, and lands may be sold for taxes delinquent one year. There is a right to redemption for one year after the time of sale.

Wills. There are four requisites to make a valid will in this State. They are: (1.) That it be in writing. (2.) That it be signed by the testator. (3.) That such signature shall be made by the testator, or the making thereof acknowledged by him in the presence of two witnesses. (4.) That it shall be declared to be his last will in the presence of these witnesses.

NEW MEXICO.

BANKING LAW.

(Revised by WILLIAM J. MILLS, Attorney at Law, Las Vegas.)

Any number of persons not less than three may establish a bank of discount and deposit with not less than \$30,000 capital, of which at least fifty per cent. must be paid at once and the remainder within one year. Statements showing condition of bank must be sent to Territorial Treasurer in January and July, and published at least once a week for three successive weeks in a newspaper. Officers and stockholders are liable to the extent of their shares, except when stockholder sells his stock, liability ceases from one year after transfer. Stockholders collectively are not liable to the bank as principal debtors or sureties for more than two-fifths of amount of capital stock actually paid in, and remaining undiminished by losses or otherwise. If any president, director, manager, cashier, or other officer of any banking institution, or the owner, agent, or manager of any private bank receives deposits after knowledge of bank's insolvency, they are guilty of larceny, and the failure of the bank is *prima facie* evidence of such knowledge.

COMMERCIAL LAW.

Acknowledgments of deeds are made, if taken in the Territory before any Judge or Clerk of a court of record having a seal, or before a Justice of the Peace or Notary Public. If made without the Territory, and within the United States, before any United States court, or any court of any State or Territory having a seal, or before the Clerk or Judge of any such court, the genuineness of the signature and official character of such Judge to be certified to under the seal of his court by the Clerk thereof, or before a Commissioner of Deeds for New Mexico, or before a Notary Public having an official seal or before the Clerk of any court of record having a seal. If taken without the United States, before any Clerk of a court of record having a seal, before any Notary Public, Consul, or Vice-Consul of the United States having a seal, or before the Judge of any court of record having a seal. In last instance the genuineness of Judge's signature and official character must be certified to by some officer having an official seal under his charge. All officers out of the United States must have their official character certified in usual manner.

Assignments. Voluntary general assignments may be made for the benefit of creditors. Deed of assignment and inventory must be promptly recorded in the county or counties where the assignor or assignors reside. Every sale, mortgage, or assignment made by debtors, and every judgment suffered by any defendant, or any act or device, done or resorted to in contemplation of insolvency or with the view of giving a preference, shall operate as an assignment and transfer of all the real and personal property of the debtor for the general benefit of creditors; but this shall not vitiate or affect any mortgage made in good faith to secure any debt or liability created simultaneously with such mortgage, which must be recorded forthwith. Assignments shall not become operative until the assignee shall have executed a good and sufficient bond, to be approved by the judge of the District Court. If the assignee shall fail to settle up the estate within twelve months and distribute the same, any creditor may file a bill of complaint and compel settlement, as provided by the act. Statement of accounts of the trust must be made to the District Court at first regular term after assignment, and at least every three months thereafter. Claims to be approved within three months after date of assignment, at some place advertised. Known creditors to be notified by letter. Rejected claims may be sued for in thirty days after rejection. First dividend must be declared within thirty days after time for presenting claims has expired, and as often thereafter as five per cent. can be paid, after deducting accrued expenses. Previous exemptions under the law are reserved and maintained.

Attachments. Creditors whose demands amount to fifty dollars or more may sue debtors by attachment, issued out of District Court; when debtor is non resident of the Territory; when debtor has concealed himself or absconded, or absented himself from his usual place of abode, so that ordinary process of law can not be served upon him; when debtor is about to remove his property out of the Territory, or is fraudulently concealing or disposing, or has concealed or disposed of the same; when debt is contracted out of Territory and property secretly moved into the Territory, when defendant is a corporation, whose office is out of Territory and not having agent in Territory upon whom to serve process; when debt was fraudulently contracted or credit obtained by false pretenses. Attachments will also lie upon actions founded upon a tort. Money or property due the defendant, and held by others, may be collected by garnishment. Attachment may issue upon a

Original from

claim or demand not matured. A *capias* will issue on affidavit that defendant is about to abscond. Plaintiff must furnish bond as in case of attachment.

Courts. Terms and Jurisdiction. Supreme Court, which is made up of the judges of the five District Courts, and which meets annually in Santa Fe, in July. District Courts hold two terms a year in all the counties, and have unlimited common law and chancery jurisdiction. There are Probate Courts with the usual powers, holding six terms a year. Justice's jurisdiction, \$100.

Executions may issue at any time within five years from rendition of judgment, and to any county in the Territory. From District Courts are returnable in sixty days from delivery to Sheriff, and from Justice's Courts in thirty days from date of issue. No stay of execution except by appeal. A writ of error will stay execution of a judgment in District Court, if such writ is applied for within three months from date of rendition of judgment and bond is given for double the amount of such judgment. The Supreme Court may assess ten per cent. damages where appeal is taken without reasonable cause. Real estate sold under execution, and subject to liens and incumbrances, may be redeemed within one year.

Exemptions. Real estate up to \$1,000, where debtor is head of family. Bedsteads and all necessary to use of same; on cook stove and pipe; one stove and pipe for warming dwelling; and sixty days' fuel. One cow, or household furniture \$40 in value; two swine, or pork thereof, or, in lieu, household furniture \$15 in value; six sheep or their wool, or the cloth thereof, or, in lieu thereof, household furniture \$20 in value; and sixty days' food for animals. Religious and school and secular books and family pictures. Provisions, value \$50, and additional household furniture, value \$200. One sewing machine, one knitting machine, one gun or pistol, and tools of the trade or occupation of the debtor, \$50. The personal earnings of the debtor, and of his or her minor children, for three months. All specimens and cabinets of natural history. Business draymen or wagoners, one horse and wagon for a living, in addition to foregoing. If debtor, head of family, is in agriculture, then two horses, or one yoke of cattle, and one wagon and harness; and if in practice of medicine, one horse, saddle, and bridle, books and instruments, \$100 value; all in addition to exemptions in previous sections. Any resident not owning homestead may select real or personal property, value \$500, in lieu thereof, in addition to all the previously stated exemptions. Unmarried women—wearing apparel \$50 in value, one sewing machine, one knitting machine, religious and other books, \$50; and if teacher of music, piano or organ. Lawyer (being head of family), books of his profession, \$500. Mutual benefit funds, paid or set aside for debtor under rules, \$5,000, and all previous exemptions. Homestead liable for purchase money or mortgage thereon. Property of benevolent societies, and property for extinguishing fires.

Interest. It is unlawful to charge, collect or receive a higher rate of interest than twelve per cent. per annum. Where no rate is expressed, then the law allows six per cent. per annum. All open running accounts bear six per cent. from six months after the date of delivery of last article. Judgments bear six per cent. per annum when no other rate is expressed; but the same rate of interest as the obligation or contract sued on when so expressed in the judgment; but no judgment will bear more than twelve per cent. per annum. Usury is punishable as a misdemeanor, and the party also forfeits double the amount of interest collected.

Judgments are a lien on real estate within the county from date of docketing, and may be extended to other counties by filing transcript with the Clerk of the Probate Court of such county. Judgments also become a lien on live stock ranging at large, when it would be impossible and impracticable for Sheriff to round up, upon his filing with Clerk of Probate Court in the counties where such live stock is ranging, a certified copy of execution.

Limitations of Suits. Ten years' adverse possession of lands under color of title bars all actions. Infants, *femmes covert*, persons of unsound mind, imprisoned, or beyond the limits of the United States, are not within this statute. All other actions must be brought as follows: Upon judgments of any court in New Mexico within seven years, and upon judgments of any court of record of any other Territory and State and of the Federal Courts within seven years. On bonds, promissory notes, bills of exchange, or other contracts in writing, and upon judgments of any court not of record, within six years; on open accounts and unwritten contracts, injuries to property, conversion of personal property, relief on account of fraud, within four years; against sureties on official bonds, and against sheriffs and public officers, within two years. Actions of replevin must be brought within one year after right of action accrued. Accounts against the estates of deceased persons must be presented within one year from date of appointment of Executor or Administrator, and if rejected by Probate Court, must be appealed to or sued on in District Court within six months thereafter. No appeal can be taken nor action commenced more than eighteen months after such appointment.

Married Women retain their separate property owned at the time of their marriage, and also hold and enjoy property of all description acquired by them during marriage, free from liability of their husbands; they can contract with each other as fully as if relation of husband and wife did not exist.

Mortgages. All deeds, mortgages, United States patents, and other writings affecting the title to real estate, shall be recorded in the office of the probate clerk of the county or counties in which the real estate affected thereby is situated. All personal property except growing crops may be mortgaged. Chattel mortgages or a true copy thereof must be recorded, and must be renewed within thirty days of the expiration of one year by mortgagee's affidavit showing interest in mortgagee, and yearly thereafter. Chattel mortgages, or other instruments of writing having the effect of a mortgage or a lien upon personal property, shall be acknowledged by the owner or mortgagor and recorded in the same manner as conveyances affecting real estate. Recorder shall indorse on the back thereof the time of receiving it and when recorded; the party in whose favor the mortgage is executed shall have the right to withdraw the same. The recorder shall keep a book, properly indexed, in which shall be recorded affidavits of renewal of chattel mortgages; when such mortgage is acknowledged and recorded in the manner herein prescribed, or when such affidavit of renewal is recorded as herein required, and it shall be shown to the Court by

proper evidence that such mortgage or affidavit is lost or not in the possession of the party wishing to use the same, the record thereof or the transcript of such record certified by the recorder under the seal of his office may be received in evidence without further proof.

Notes and Bills of Exchange. In absence of any designated place of payment the common law prevails. Any promissory note, or order for the payment of money at some future time, which, by its terms becomes due and payable on Sunday or on any legal holiday, shall be construed to fall due and become payable on the next business day thereafter; and for the purpose of this act, the fourth day of July, the twenty-fifth day of December (Christmas), the first day of January (New Year's Day), and all days designated by public proclamation of the Governor as fast days or thanksgiving days, shall be deemed legal holidays. Three days grace allowed on promissory notes.

Suits. All transitory actions must be brought in the county where the plaintiff or defendant resides, or where the contract is to be performed, or the cause of action originated, or in any county where defendant may be found within the judicial district in which he has his residence. Suits resulting from damage to sheep herds on public domain, or injuring or killing any person in charge of the same, may be brought in any county of the Judicial District in which the cause of action occurs. Suits to recover real estate must be brought in the county where such real estate or any portion thereof is situate. Actions against non-residents or transient persons may be brought in any county.

NEW YORK.

BANKING LAW.

(Revised by ROSENDALE & HESSBERG, Attorneys at Law, Albany.)

The constitution provides (Article VIII., Section 4), that the legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws. Chapter 689, Laws of 1892, entitled "An Act in relation to banking corporations," provides a complete plan for the organization of the banking department, whose chief officer is denominated the "superintendent of the banking department." The act contains 216 sections, and covers the subject matter of banks and banking in the State. Under it banks may be organized with a capital of not less than \$100,000, though in places of not more than 30,000 inhabitants a minimum capital of \$50,000 is allowed. In addition to the deposit required to secure the circulating notes, a deposit of \$1,000, as a pledge of good faith and guaranty of compliance with the banking laws, is required to be made in the department, and the Superintendent is authorized to apply the same or any part thereof in payment of any penalty incurred by or assessment imposed on the bank or bankers making the deposit.

Circulation and the deposit of security therefor is provided for in the act. The State constitution provides that stockholders in banks issuing bank notes shall be liable to the amount of their respective shares for all debts and liabilities; and also that bill holders, in case of insolvency, shall be entitled to a preference in payment over all other creditors of the bank. Quarterly reports are required to be made to the Superintendent, as of a day designated by the Superintendent. The Superintendent makes an annual report to the legislature. It is made the duty of the Superintendent, in his discretion, if he shall deem it proper, to personally examine the books, etc., of any bank, or he may designate some competent person to make the examination. The examiner is authorized to administer oaths, and may summon persons and examine them on oath. Willful false swearing is perjury. The act referred to also provides for the organization and management of—

Savings Banks. Supervision over these is given to the State banking department. Each savings bank is to be examined at least once in every two years by the department. Interest-drawing deposits are limited to \$3,000 (excepting as to deposits arising from judicial sales, or trust funds).

The investment of the funds of Savings banks is regulated by said Act.

The following are the provisions of Sec. 116 of the Act relative to investments, as amended by Chap. 440 of Laws of 1893:

SEC. 116. The trustees of any Savings bank may invest the moneys deposited therein and the income derived therefrom only as follows:

1. In the stocks or bonds, or interest-bearing notes or obligations of the United States, or those for which the faith of the United States is pledged to provide for the payment of the interest and principal, including the bonds of the District of Columbia.
2. In the stocks or bonds or interest-bearing obligations of this State issued pursuant to the authority of any law of this State.
3. In the stocks or bonds or interest-bearing obligations of any State of the United States that has not, within ten years previous to making such investment by such corporation, defaulted in the payment of any part of either principal or interest of any debt authorized by the legislature of any such State to be contracted.
4. In the stocks or bonds of any city, county, town or village, school district bonds, "and union free school district bonds issued for school purposes," or in the interest-bearing obligations of any city or county of this State, issued pursuant to the authority of any law of the State for the payment of which the faith and credit of the municipality issuing them are pledged.
5. In the stocks or bonds of the following cities: Boston and Worcester, in the State of Massachusetts; St. Louis, in the State of Missouri; Cleveland, in the State of Ohio; Detroit, in the State of Michigan; Providence, in the State of Rhode Island, and New Haven in the State of Connecticut. If at any time the indebtedness of any of said cities, less its water debt or sinking fund, shall exceed seven per cent. of its valuation for purpose of taxation, its bonds and stocks shall thereafter cease to be an authorized invest-

ment for the moneys of Savings Banks, but the superintendent of the banking department may, in his discretion, require any Savings Bank to sell or retain such bonds or stocks of said city as may have been purchased prior to said increase of debt.

6. In bonds and mortgages on unincumbered real estate situated in this State, and worth at least twice the amount loaned thereon. Not more than sixty five per centum of the whole amount of deposits, shall be so loaned or invested. If the loan is on unimproved and unproductive real estate, the amount loaned thereon shall not be more than forty per centum of its actual value; and no investment in any bond and mortgage shall be made by any savings bank, except upon the report of a committee of its trustees charged with the duty of investigating the same, and who shall certify to the value of the premises mortgaged or to be mortgaged, according to their best judgment, and such report shall be filed and preserved among the records of the corporation.

7. In real property, subject to the provisions of Section 117 of this act. (This section limits the holding of real estate: 1. To a banking house, at a cost not over 50 per cent. of the surplus. 2. Real estate purchased at foreclosure of its mortgages.)

SEC. 118 The trustees of any such corporation shall, as soon as practicable, invest the moneys deposited with them in the securities named in the last preceding section of this act; but, for the purpose of meeting current payments and expenses in excess of the receipts, there may be kept an available fund of not exceeding ten per centum of the whole amount of deposits with such corporation, on hand, or deposit in any bank in this State, organized under any law of this State, or of the United States, or with any trust company incorporated by any law of this State, but the sum so deposited in any one bank or trust company shall not exceed twenty-five per cent. of the paid-up capital and surplus of such bank or trust company; or such available fund, or any part thereof, may be loaned upon pledge of the securities, or any of them, named in subdivisions one, two, three and four of the preceding section but one, but not in excess of ninety per centum of the cash market value of such securities so pledged; and, should any of the securities so held in pledge depreciate in value, after making any loan thereon, the trustees shall require the immediate payment of such loan, or of a part thereof, or additional security therefor, so that the amount loaned shall at no time exceed ninety per centum of the market value of the securities pledged for the same.

Lawful Money Reserve. Banks of discount and deposit, having their principal places of business in the cities of New York or Brooklyn, are required to have at all times on hand at least fifteen per cent. of their aggregate amounts of deposits, and all other banks, ten per cent. This provision is less stringent than the requirement of the National Banking Law, yet it is thought to be fully sufficient to provide such a reserve as safe and conservative banking seems to demand.

Loans. Loans to any person, company, corporation, or firm, or upon paper upon which any such person, company, corporation, or firm may be liable, are limited to one-fifth part of the capital stock actually paid in, and surplus. But this restriction shall not apply to loans or discounts secured by collateral security worth ten per centum more than the amount or amounts loaned thereon, nor to the discount of bills of exchange drawn in good faith against actually existing values; provided, however, that such loans or discounts on such collaterals shall not exceed one-half the actual paid-in capital stock and surplus of such corporations or bankers, or of commercial or business paper actually owned by the person negotiating the same.

COMMERCIAL LAW.

Acknowledgments must be made within the State, before a Judge of a court of record, Surrogate, Notary Public, Justice of the Peace, Mayor, Recorder or Commissioner of Deeds. (No special form, separate and apart from her husband, etc., now required for married women.) If made without the State, they may be taken by Judges of United States Courts, Judges of the Supreme, Circuit or Superior Court of any other State or Territory, within the jurisdiction of their courts; by the Mayor of any city, or by a New York Commissioner. When made by any person residing out of the State, and within any other State or Territory, they may be taken before any officer of such State or Territory authorized by its laws to take acknowledgments. When acknowledged as last above stated, there must be obtained a certificate "under the name and official seal of the Secretary of State of the State in which such officer resides, or under the name and official seal of the Clerk, Register, Recorder, or Prothonotary of the County in which such officer resides, or the Clerk of any Court thereof having a seal specifying that the officer was authorized, etc." (Chap. 100, Laws of 1891.)

Arrest. A debtor may be arrested in certain classes of civil action, among which is an action to recover for fraud in contracting the debt, or where the debtor has disposed or is about to dispose of his property, with intent to defraud his creditors.

Assignments and Insolvency. Statutory provisions exist, regulating the making of general assignments in trust, for the benefit of creditors: Preferences are allowed for the wages or salaries of employes, and to the amount of one-third in value of the assigned estate after deducting such wages or salaries and the costs and expenses of executing the trust. (Chapter 503, Laws of 1887); also regulating the filing of inventory, the giving of bonds and accounting by the assignee. The court has power to remove assignees, and may require creditors to present claims within a period to be prescribed, notice whereof is to be given by advertisement, etc. The dividends paid by such an assignee need only be applied upon the debt of the assignor, and does not discharge or satisfy the whole indebtedness of the assignor.

Attachments may issue in actions for damages for breach of contract, wrongful conversion of personal property, or injury thereto caused by negligence or fraud, or where defendant is non-resident or has left the State, or conceals himself to avoid service, or has sold, assigned, secreted, or is about to sell, assign, or secrete his property with intent to defraud creditors. Bonds are to be given on the procurement of attachments.

Corporations. Insurance, banking, railroad, transportation, and business corporations can be formed under the General Laws of the State.

The statutes relating to these corporations have been codified by the Statutory Revision Commission and passed by the Legislatures of 1890, 1891, and 1892.

They are to be cited as chapters of the "General Laws," and are numbered as follows: Banking, chapter 37; insurance, chapter 38; railroads, chapter 39; transportation, chapter 40; business, chapter 41.

All of above, except those formed under the Banking Act, must pay an incorporation tax of one-eighth of one per centum on their capital or upon any subsequent increase.

Courts. Terms and Jurisdiction. The Supreme Court has unlimited jurisdiction. The Court of Common Pleas and the Superior Court of the City of New York, the City Court of Brooklyn, and the Superior Court of Buffalo, have jurisdiction to an unlimited amount where the defendant resides within the territorial jurisdiction of the court, or is served with the summons therein, or where the cause of action arose therein. There is a County Court for each county, having jurisdiction to the amount of \$1,000, in actions where the defendant is, or if there is more than one, where all of the defendants are, residents of the county. Justices of the Peace have jurisdiction in actions on contract where the sum claimed does not exceed \$200, and District Courts of the City of New York, where the sum does not exceed \$250, and the City Court of the City of Albany, where the sum does not exceed \$500.

Deeds. The legislature has provided for short forms of deeds and mortgages. A schedule of authorized forms is appended to the Act. (See Chap. 475, Laws of 1890.)

Depositions. The deposition of a party or of a person not a party within this State, in an action brought or to be brought, may be taken, where shown that such testimony is material and necessary in the prosecution or defense of the action; or if the action is pending that the person to be examined is about to depart from the State, or that he is so sick or infirm as to afford reasonable ground to believe that he will not be able to attend the trial. Such deposition, except that of a party taken at the instance of an adverse party, can only be used upon proof of the witnesses' inability to attend the trial.

Depositions may be taken without the State for use within the State. The Commission, in the discretion of the Court, may direct the examination upon oral questions or written interrogatories.

Depositions may also be taken within the State for use without the State in an action or special proceeding pending in a Court without the State, either in the United States or in a foreign country. A person who fails to respond to a subpoena for such examination is guilty of contempt of court.

Executions will issue at any time within five years from date of judgment; after five years, leave must be obtained from the Court. Executions may issue to two or more counties at the same time. There are no stay laws, unless an appeal is taken, when an undertaking securing the judgment can be given. On a judgment, in any case, after execution is returned unsatisfied, defendant and others may be examined as to the judgment debtor's property in proceedings supplementary to execution, and required to apply any not exempt in payment. In certain cases a debtor may be imprisoned on execution; provision is made for the giving of bail to remain within the jail limits. The debtor may be discharged upon making assignment of his property (if debt is \$500 or over, only after three months' imprisonment.)

Exemptions. Homestead, \$1,000 (to secure such exemption, deed, or notice designating that the property is to be used as a homestead, must be recorded); necessary furniture, tools, team, etc., \$250. Even in supplementary proceedings, the judgment debtor cannot be ordered to apply upon the judgment his earnings for his personal services within sixty days preceding the order, if such earnings are necessary for the support of a family wholly or partly supported by his labor.

False Pretenses. A purchase of property by means of a false pretense is not criminal, where the false pretense relates to the purchaser's means or ability to pay, unless the pretense is made in writing, and signed by the party to be charged.

Interest. The legal rate of interest (which was formerly, until January 1, 1880, seven per cent.) is fixed at six per cent. All notes, bonds, contracts, securities, etc., whereby a greater rate is reserved, or taken, or agreed for, are absolutely void, and the lender can recover neither principal nor interest in such cases, but corporations can not plead usury as a defense. Usury is also punishable as a misdemeanor by fine or imprisonment, or both. State banks have been placed on the same footing as National banks as regards usury, and are thereby exempt from the extreme penalties mentioned above. By chapter 237, Laws of 1882, on demand loans of \$5,000 and over, made with warehouse receipts, bills of lading, certificates of stock, certificates of deposit, bills of exchange, bonds, or other negotiable instruments, pledged as collateral, it is lawful to receive and collect, as compensation for making such advances, any sum, to be agreed upon in writing by the parties to the transaction.

Judgments. Judgments docketed in a County Clerk's office bind, and are a charge upon real property for ten years, which the judgment debtor has or acquires within that time.

A judgment is presumed to be paid after the expiration of twenty years from the time when the party recovering it was first entitled to a mandate to enforce it.

Confession or an offer of judgment can be made in an action.

Limitations of Suits. Contracts, express or implied, except those under seal, six years; recovery of real estate upon judgments of courts of record and sealed instruments, twenty years. Revivor: Part payment or new promise in writing.

Married Women can take, hold, mortgage and convey real and personal property. A married woman may contract with her husband, or any other person, to the same extent, with like effect, and in the same form as if unmarried, and she and her separate estate shall be liable thereon, whether the contract relates to her separate estate or otherwise, and in no case shall a charge upon her separate estate be necessary. (Chap. 594, Laws of 1892.) A married woman can convey real estate directly to her husband, and the husband can convey directly to his wife. Widows have right of dower.

Original from

Mortgages must be executed and recorded same as deeds. Where containing a power of sale, may be foreclosed by an action brought for the purpose, or without intervention of court (by advertisement). There is no redemption under a mortgage sale. Chattel mortgages, except where the possession of the property mortgaged passes to, and is retained by, the mortgagee, must be filed forthwith, or are void as against creditors and innocent purchasers. Such mortgage ceases to be valid in one year, except as to the mortgagee or his representatives, unless a copy thereof is re-filed annually with a certificate of the mortgagee as to the amount unpaid thereon, and this copy, mortgage and certificate constitutes a renewal of the mortgage for one year.

Notes and Bills of Exchange. Commercial paper is not defined by statute. It is not necessary that paper should be made payable at a bank or any fixed place. Bills of exchange (foreign), drafts, checks, and promissory notes payable to bearer, the maker or his order, or the order of any third party, are negotiable. Bills of exchange or drafts drawn payable at sight at any place within the State, are made due at presentation, without grace. Checks, bills of exchange or drafts, drawn on banks or bankers, and which are payable on a *specified day*, or in any number of *days* after the date or sight thereof, are payable without grace, and it is not necessary to protest the same for non-acceptance. (The Courts have decided that grace is not abolished on bills payable a specified number of *months* after date.) If not paid when due they may be protested, and the certificate of protest is *prima facie* evidence of presentation and non-payment. To charge indorser, notice of non-payment must at once be given to him. Chapter 289, Laws of 1887, as to acceptance and payment of checks, and notes provides: § 1. The following days, and half days, namely: The first day of January, commonly called New Year's Day; the twenty-second day of February, known as Washington's birthday; the thirtieth of May, known as Decoration Day; the fourth day of July, called Independence Day; the first Monday of September, to be known hereafter as Labor Day; the twenty-fifth day of December, known as Christmas Day; any general election day in this State; every Saturday, from twelve o'clock at noon until twelve o'clock at midnight, which is hereby designated a half-holiday; and any day appointed or recommended by the Governor of this State or the President of the United States as a day of thanksgiving, or fasting and prayer or other religious observance, shall, for all purposes whatever, as regards the presenting for payment or acceptance and of the protesting and giving notice of the dishonor of bills of exchange, bank checks and promissory notes, made after the passage of this act, be treated and considered as the first day of the week commonly called Sunday, and as public holidays or half-holiday; and all such bills, checks, and notes otherwise presentable for acceptance or payment on any of the said days, shall be deemed to be payable and be presentable for acceptance or payment on the secular or business day next succeeding such holiday; but in the case of a half-holiday, shall be presentable for acceptance or payment at or before twelve o'clock noon of that day. Provided however, that for the purpose of protesting or otherwise holding liable any party to any bill of exchange, check or promissory note, and which shall not have been paid before twelve o'clock at noon on any Saturday, a demand of acceptance or payment thereof may be made and notice of protest or dishonor thereof may be given on the next succeeding secular or business day. And provided further, that when any person shall receive for collection any check, bill of exchange or promissory note due and presentable for acceptance or payment on any Saturday, such person shall not be deemed guilty of any neglect or omission of duty, nor incur any liability in not presenting for payment or acceptance or collecting such check, bill of exchange or promissory note on that day. And provided further, that in construing this section every Saturday unless a whole holiday as aforesaid, shall until twelve o'clock noon be deemed a secular or business day. And the days and half days aforesaid shall be considered as the first day of the week, commonly called Sunday and as public holidays or half-holidays, for all purposes whatsoever as regards the transaction of business in the public offices of this State or counties of this State. On all other days or half days, excepting Sundays, such offices shall be kept open for the transaction of business. § 2. Whenever the first day of January, the twenty-second day of February, the thirtieth day of May, the fourth day of July, or the twenty-fifth day of December shall fall upon Sunday, the Monday next following shall be deemed a public holiday for all or any of the purposes aforesaid; provided, however, that in such case all bills of exchange, checks and promissory notes made after the passage of this act which would otherwise be presentable for acceptance or payment on the said Monday shall be deemed to be presentable for acceptance or payment on the secular or business day next succeeding such holiday. Chapter 461, Laws of 1887, provides as follows: § 1. All bills of exchange and promissory notes made after the passage of this act, except those payable at sight or on demand, which shall be otherwise payable on any half holiday Saturday, shall be deemed to be and shall be payable on the next succeeding secular or business day. § 2. All bills of exchange which by terms thereof shall be payable on the first day of the week commonly called Sunday, shall be deemed to be and shall be payable on the next succeeding secular or business day. The Governor in issuing a proclamation for days of thanksgiving, fasting and prayer, may, in his discretion, limit or restrict the effect and operation to any city or county to be designated in the proclamation. Laws 1889, Chapter 198.

Seal. The private seal of a person may consist of a wafer, wax, paper, or other similar adhesive substance, or of the word "seal" or the letters "L. S." (Sec. 13, Chap. 677, Laws 1892.)

Suits in civil actions must be prosecuted in the name of the real party in interest, except that an executor, administrator, trustee of an express trust, or person specially authorized by statute, may sue in his own name. A married woman can now sue and be sued in an action in tort without joining her husband. (Chap. 51, Laws of 1890.) The practice is under a Code, known as the "Code of Civil Procedure."

Taxes. Lands may be sold for taxes when two years delinquent. Publication of sale is made for twelve weeks in the county paper, and two years after sale are allowed for redemption, the owner having the right to redeem by paying the purchase money and interest at ten per cent. per annum. A mortgagee (where the instrument is duly recorded) has a similar right of redemption and upon filing a notice of his mortgage, its date, record, etc.,

with the Comptroller, is entitled to notice before the tax title can cut off his mortgage. Special provisions for sales of lands for taxes exist in several cities and counties. In cities, assessments for local improvements may be enforced, by sales of the houses and lots assessed.

Wills. All persons, except idiots, persons of unsound mind, and infants, may devise their real estate by will. Males of eighteen years and upwards, and females of sixteen years and upwards may bequeath personal estate.

Wills must be subscribed by the testator in the presence of two witnesses, each of whom must sign his name at the end of the will, at the request of the testator, who must acknowledge and declare the instrument to be his last will. A will of an unmarried woman is revoked by subsequent marriage.

A devise or bequest to a witness whose testimony is necessary to establish the will is void.

The Code of Civil Procedure regulates the practice of probating wills in the Surrogates' Courts of the several counties of the State.

NORTH CAROLINA.

BANKING LAW.

(Revised by HAYWOOD & HAYWOOD, Attorneys at Law, Raleigh.)

Trustees, guardians, etc., are not relieved from liability by bank charters permitting deposits. Laws of 1889, Chapter 470.

All banking institutions incorporated under the laws of the State, may receive and pay out the lawful currency of this State or of any of the States of the United States, deal in exchange, gold and silver coin, bullion, uncurrent paper, bonds and stocks, and public or other securities, manufactured goods, cotton or other products of the country; may purchase and hold real estate for the transaction of business, or such as may be conveyed to secure debts to said banks, or for other purposes, and may sell and convey the same; and may also hold such personal property as may be conveyed to secure debts, or acquired for other purposes, and at pleasure sell or exchange the same; may discount notes, and other evidences of debts, and lend money at the legal rate of interest of this State, which interest may be taken in advance at the time of loan in discount. It may receive on deposit moneys on terms to be agreed on between the officers and depositors, not exceeding the rate allowed by law. The bank may also receive on deposit moneys held in trust by administrator, executor, guardians and others, may issue certificates of deposit bearing interest not exceeding the legal rates. Bills, notes, certified checks, or other obligations, when signed by the proper officers of the bank, shall be as binding as if under the seal of the bank; those payable to order shall be assignable by indorsement, and those payable to bearer shall be negotiable and payable by delivery only. Savings banks may be organized under the "General Corporation Law," and the investments of said banks are regulated by statute. Acts 1887, Ch. 412. Deposits less than \$100 to credit of deceased person may be paid to next of kin or person defraying expenses of last sickness and burial of deceased without any legal administration. Deposits made by a married woman shall be paid only to her or on her order. Laws 1891, Chapter 221. There are no laws restricting the class of bonds Savings banks may invest in. Banking corporations can not be formed under the "General Corporation Law," but must apply to the legislature for their charters.

All joint stock companies organized under the laws of the State, for the purpose of conducting a banking business, whether savings or general, and all private banks and bankers that solicit or receive deposits, are required to make to the State Treasurer statements of their financial condition at such times as National banks are required to make statements to the Comptroller of the Currency. Statements are to be published as in case of National banks, and shall be made in accordance with the form to be prescribed by the State Treasurer; one copy of the statement is to be filed with the State Treasurer and another in the office of the bank, banking institution, or banker. The State Treasurer is required to appoint some one to make special examination, in person, into the condition of such institutions annually, at a time unknown to any person except the State Treasurer and the Examiner, and report same to him. Expenses of examination to be borne by the bank examined. The statements required by this act are to be certified under oath by the President or Cashier of the bank, and attested by at least three of the Directors of said bank, and, in case of private banks and banker, by the president, manager, or individual conducting said bank, or the owner, manager, or individual banker aforesaid. If, upon such report, it shall appear to the State Treasurer that such bank, etc., is insolvent, or in immediate danger of insolvency, or is guilty of fraud, fraudulent practices or concealments, said Treasurer shall institute proceedings for the purpose of winding up the affairs of said bank, etc., and for the appointment of a receiver. If report shows bank to be in precarious condition Treasurer must notify bank to correct errors or irregularities, etc., within thirty, sixty, or ninety days, in his discretion, and on failure, to institute proceedings as above stated. Laws of 1893, Chapter 478. Heavy penalties are prescribed for failure of bank or banker to comply with the Act and notice of the default is to be published by the State Treasurer. Any officer knowingly making false statement is guilty of felony. Laws of 1891, Chapter 155.

COMMERCIAL LAW.

Acknowledgments may be taken within the State by any Judge or Clerk of a court of record, or any Justice of the Peace or Notary Public. In other States by any Commissioner appointed by the Governor of this State and Clerks of courts of record in such States, and in foreign countries by a Mayor or other Chief Magistrate, or any Minister, Consul or Commercial Agent of the United

States. Acknowledgments of deeds, to which Superior Court clerks are parties or interested in, taken before any Judge of Superior Court or Justice of Supreme Court.

Arrest and Bail. Defendant may be arrested in a civil action in the following cases: 1. In an action arising on contract where defendant is a non-resident of the State, or is about to remove therefrom with intent to defraud his creditors, and in an action for the recovery of damages on a cause of action not arising out of contract, where the action is for injury to person or character, or for wrongfully taking, detaining or converting property, real or personal. 2. In an action for a fine or penalty, or for money received, or for property embezzled or fraudulently misapplied, by a public officer or by an attorney, solicitor or counselor, or by an officer or agent of a corporation or banking association, in the course of his employment as such, or by any factor, agent, broker, or other person in a fiduciary capacity; or for any misconduct or neglect in office, or in a professional employment. 3. In an action to recover the possession of personal property unjustly detained, where the property, or any part thereof, has been concealed, removed or disposed of, so that it can not be found or taken by the sheriff, and with the intent that it should not be so found or taken; or with the intent to deprive the plaintiff of the benefit thereof. 4. When the defendant has been guilty of a fraud in contracting the debt, or incurring the obligation for which the action is brought, or in concealing or disposing of the property for the taking, detention or conversion of which the action is brought; or when the action is brought to recover damages for fraud or deceit. 5. When the defendant has removed or disposed of his property, or is about to do so, with intent to defraud his creditors. Provisions of the act do not apply to proceedings for contempt, and no female shall be arrested in any action, except for willful injury to person, character or property. Defendant arrested is at any time, before judgment, entitled to a jury trial on motion to vacate order of arrest. Laws of 1889, Chap. 497.

Assignments and Insolvency. An insolvent debtor may be discharged by filing petition and making assignment of property to a trustee for benefit of all creditors. But his subsequently acquired property (not exempt) is liable for the satisfaction of his debts. No creditor not having received notice is bound by the discharge. Any creditor may suggest fraud, and on fraud or concealment being found by jury, judgment will be that debtor be imprisoned until a full and fair disclosure of all his money, property or effects be made. Voluntary assignments are only good against creditors from registration. A debtor may in an assignment prefer one creditor to another. Upon execution of voluntary deed of assignment all debts of maker become due. Assignor must file verified schedule of preferred debts in office of Clerk of Court within five days of the registration of such deed of assignment. Assignee must file verified inventory in office of the Clerk of the Court within ten days after registration of deed of assignment. Additional inventory must be filed within ten days of coming in of further property. Duty of Clerk to remove insolvent assignee upon complaint preferred by creditor unless such assignee give a good and sufficient bond, to be approved by said Clerk. In case assignee is removed, person appointed in his place must give a good and sufficient bond, to be approved by said Clerk. Unlawful for assignee to sell any part of property described in deed of assignment within ten days from registration thereof, except perishable property. Assignee must file with Clerk of Court every three months verified account of receipts and disbursements, and final account within twelve months, but time may be extended for good cause shown. Creditors must file with Clerk verified statement of claim. Creditor knowingly swearing falsely guilty of misdemeanor, and trustee failing to file inventory, or filing false inventory, or selling any property not perishable within ten days, or failing to file quarterly or final accounts, or filing false accounts, etc., guilty of misdemeanor. Laws of 1893, Chap. 453.

Attachment process may issue against the property of a non-resident debtor, or one who has departed from the State to defraud his creditors or to avoid the service of a summons, or keeps himself concealed therein with like intent; or against a foreign corporation, or if such person or corporation has removed, or is about to remove, any of his or its property from this State with intent to defraud his or its creditors, or has assigned, disposed of, or secreted, or is about to assign, dispose of, or secrete any of his or its property with the like intent, whether such debtor is a resident of this State or not. The creditor procuring warrant of attachment must, within ten days, file affidavits in the Clerk's office, or before a Justice of the Peace, if the warrant is taken out in his court, stating the grounds on which the warrant of attachment is asked. The creditor is also required to give good bond and security for costs and damages in case the proceeding by attachment is wrongful or oppressive. Garnishee process is not known under the statute. In actions arising on contract for recovery of money only, or in an action for the wrongful conversion of personal property, attachment process may issue at the time or after the issuing of the summons. Service of summons must be made personally or commenced by publication within thirty days after obtaining warrant of attachment. Within thirty days after obtaining such warrant from a Justice of the Peace, plaintiff shall cause publication thereof to be made for four successive weeks.

Courts. Terms and Jurisdiction. Superior Court, holding at least two terms a year in each county, has exclusive original jurisdiction in all civil actions involving over \$300. In some counties eight terms a year are held, but only one-half of them are appearance terms. The Clerk of the Superior Court is Judge of Probate. Justice's jurisdiction, \$200.

Executions from Superior Court may issue immediately after the term at which judgment was rendered, and are returnable at the next term. Issue as of course at any time within three years after rendition of judgment; after three years have elapsed, issue only on notice and leave obtained. From Justice's Courts they issue at once; returnable in sixty days. Stay of execution is granted as follows: Under \$25, one month; \$25 to \$50, three months; \$50 to \$100, four months; above \$100, six months. There is no redemption on property sold on execution or mortgage. Notice of sale of real estate under execution to be posted at four public places, including Court House, and advertisement to be made in county newspaper.

Exemption. Every homestead, and dwellings and buildings used therewith, not exceeding in value \$1,000, to be selected by the owner

thereof; or in lieu thereof, at the option of the owner, any lot in any city, town or village, with the dwellings used thereon, owned and occupied by any resident of the State, and not exceeding the value of \$1,000. Personal property of the value of \$500. This law does not apply to debts contracted prior to August 20, 1868, or to taxes, payment of purchase money, or laborers' or mechanics' lien. The exemptions allowed when debt was contracted prior to August 20, 1868, are those that were in force at the time the debt was contracted.

Interest. Six per cent. is the prescribed usual rate. Eight per cent. may be stipulated for in writing. Rate on judgments and open accounts, six per cent., unless parties contract for higher rate up to eight per cent., which they may do. Taking—knowingly—a greater rate of interest, is forfeiture of the entire interest, and in case a greater rate has been paid, the person who has paid it, or his legal representatives, may recover back, in an action in the nature of an action of debt, twice the amount of interest paid. Interest, if not paid when due, bears simple interest—"starts on a career of its own," i. e., when a time for payment of interest is specified, as, for instance, annually.

Judgments in the Superior Court are a lien from the time they are docketed, on all real property of defendant within the county, and can be transferred to other counties by filing transcript. Judgments from Justices' Courts are not a lien until levy is made. Lien continues ten years from time of docketing. Justice Court and Supreme Court judgments may be made judgments of the Superior Court in all respects by docketing them in said court. Judgments and decrees of United States Circuit and District Court may be docketed in Superior Courts for purpose of creating liens. Laws of 1889, Chapter 439.

Limitations of Suits. Actions on accounts and contracts not under seal must be commenced in three years, and on a note under seal must be commenced within ten years, or the statute of limitation may be pleaded against recovery. In cases of fraud or mistake cause of action does not accrue until the discovery by the aggrieved party of the facts constituting such fraud or mistake. Revivor: Part payment or new promise in writing. Personal representatives not compelled to plead the statute. Limitations apply to an action against an undisclosed partner only from time when such partnership became known to the plaintiff.

Married Women retain their real and personal property acquired before or after marriage, as their separate estate, not liable for the debts or obligations of their husbands. But no woman under coverture, unless she be a free trader, can make a binding contract, except for her necessary personal expenses, or for the support of the family, or for such as may be necessary in order to pay her debts existing before marriage, without the written consent of her husband. Widow's dower is one-third in value of all the lands and real estate of which her husband was seized during her coverture. Statute also allows widow a "year's allowance" out of the personal property of the husband.

Mortgages must be registered within the county where the land lies to be valid as against creditors or subsequent purchasers for a valuable consideration. Mortgages are foreclosed by action, except when a power of sale is given. Chattel mortgages and lien bonds must be registered. Privity examination of wife required in chattel mortgages of furniture. All conditional sales of personal property in which title is retained by bargainor must be reduced to writing, and registered in same manner and with same legal effect as chattel mortgages. They are required to be registered in the county where the purchaser resides, or, when purchaser is a non-resident of the State, in the county where the personal estate, or some part of it, is situated. Laborers' liens on crops preferred to lien for advances. After December 1st, 1885, absolute deeds are only good against creditors or purchasers from registration. Title does not pass if purchaser has notice of prior unregistered deed. Corporations are empowered to convey lands, etc., by deed signed by the President or presiding member or trustee, and attested by the Secretary of the company. In all mortgage sales under power of sale in mortgage deed, notice of sale must be posted at Court House door. Laws of 1889, Chapter 70.

Notes and Bills of Exchange. There is no statute defining commercial paper. Bills of exchange and promissory notes are what are known as "commercial paper." There is no fixed place of payment, unless parties fix it in the instrument itself. If this is not done by the parties, the old rule prevails that the debtor must seek the creditor, though in practice the exact reverse obtains. Grace (three days) is allowed on all drafts except those payable on demand. All bills and notes bear interest from maturity, unless otherwise stipulated. An indorser of a note is deemed a surety, and no demand on the maker is necessary before commencing suit against surety or indorser; but this does not apply to bills of exchange. Where a bill is drawn or indorsed in this State upon any person or corporation in any other of the United States or any of the Territories and is protested, it shall bear damages, viz., three per cent. on the principal sum. A bill or note may be protested by a Notary Public, Justice of the Peace or Clerk of a court of record. Bills of exchange and promissory notes—both those under seal and those not—are negotiable; and all notes and bonds with more than one obligor are by statute joint and several. To charge indorser of bill of exchange, notice of non-payment must be given him. The 1st of January, 22d of February, 10th of May, 20th of May, 4th of July, the day appointed by the Governor as Thanksgiving Day, and the 25th of December of each and every year, are public holidays. Whenever such holiday falls upon Sunday the Monday following shall be a public holiday. Papers falling due on Sunday or any of the above holidays are due the day before. If a holiday falls on Sunday, papers falling due on that day are due on preceding Saturday, and those which would otherwise be due on Monday are payable on the Tuesday thereafter. Whenever either of these holidays falls on Saturday, papers due on Sunday following are payable on the Monday succeeding, and whenever either of them shall fall on Monday, the papers which should otherwise be payable on that day shall be payable on the Tuesday succeeding.

Suits. Process of court must be served ten days before first day of term. The action is commenced by issuing a summons. Actions before Justices are commenced by issuing summons to be served on the defendant, which is made returnable at some time

Original from

and place within the county to be designated by the Justice. Judgment can usually be obtained in two days, sometimes within a few hours. Complaint must be filed in courts of record within the first three days of term, and answer or demurrer within the term to which the summons is returnable. Pleadings before a Justice may be either oral or written. Practice is under a Code known as the "Code of Civil Procedure."

Taxes. Taxes are due on September 1st of each year, and constitute a lien from that date. Sales for delinquent taxes are made after notice given. Delinquent taxes may remain on the land one year, and may redeem within that time by paying the amount bid by the purchaser and interest thereon at the rate of twenty per centum per annum from the date of purchase. When land is sold for taxes Sheriff gives purchaser a certificate, which is assignable, and may be foreclosed as a mortgage, provided foreclosure proceedings are begun within two years. Purchaser can also demand a deed within two years from sale day. Action to recover real estate bought for taxes must be brought in three years.

NORTH DAKOTA.

BANKING LAW.

(Revised by GEO. W. NEWTON, Attorney at Law, Bismarck.)

[Approved March 13, 1893, to take effect July 1, 1893.]

Associations for carrying on the business of banking may be formed by any number of natural persons not less than three, two-thirds of whom shall be residents of the State.

The persons uniting to form such an organization shall, under their hands, make an organization certificate, specifying:

- 1st. The name assumed by such association, which shall not be that of any other bank in the State.
- 2d. The place where the business of discount and deposit is to be carried on.
- 3d. The amount of capital stock and the amount into which its shares are to be divided.
- 4th. The names and places of residence of the shareholders and the number of shares held by each of them.
- 5th. The period at which such bank shall commence and terminate business.

The organization certificate must be acknowledged and recorded in the office of the Register of Deeds in the county where such bank may be established, and transmitted to the Secretary of State, who must record and preserve the same.

Upon making and filing said articles and certificate the association shall become a body corporate and have power:

1. To adopt and have a corporate seal.
2. To have succession for a period of twenty-five years.
3. To make contracts.
4. To sue and be sued, complain and defend in any court of law or equity.
5. To elect or appoint directors, two-thirds of whom shall be residents of this State. By its Board of Directors to appoint a president and vice-president, members of said Board, a cashier and other assistants and define their duties.
6. To prescribe, by its Board of Directors, by-laws, and regulate its business.
7. To exercise, by its Board of Directors, all powers necessary to carry on its business of banking.

Such banking association shall have power to purchase, hold, and convey real estate only for the following purposes:

1. Such as may be necessary for its immediate accommodation, not exceeding 30 per cent. of its capital.
2. Such as shall be mortgaged to it as security for debts previously contracted.
3. Such as shall be conveyed to it in satisfaction of debts previously contracted.
4. Such as shall be purchased by it at sales under judgments, decrees, or mortgages held by it or to secure debts held by it, but such real estate shall not be held longer than five years.

Capital—Limit. Towns with 1,000 inhabitants or less, not less than \$10,000; with over 1,000 and not over 1,500, not less than \$15,000; with over 1,500 and not over 2,000, not less than \$20,000; with over 2,000 and not over 2,500, not less than \$25,000; with over 2,500 and not over 3,000, not less than \$40,000; and in towns of 3,000, not less than \$50,000. At least 50 per cent. of capital must be paid in before commencing business; balance must be paid in in monthly installments of 10 per cent., and all payments must be certified to the Secretary of State under oath.

Population determined by five times all votes cast for member of Congress at last general election.

Organization certificate and authorization of Secretary of State must be published at least four weeks in paper of the city or county.

Shares may be sold for non-payment of instalments. Shares shall be \$100 each, shall be deemed personal property, and may be transferable on the books as prescribed by the by-laws.

The articles of association may provide for increase of capital. No increase shall be valid until all is paid in cash and certified under oath to Secretary of State, and his approval thereof. By a vote of holders of two-thirds of shares the capital may be reduced, but not below amount required by the Act, with the approval of Secretary of State. No reduction shall affect liability of shareholders for debts of association incurred prior to such reduction.

Dissolution. The District Court may dissolve an association upon its voluntary application in writing, resolved upon by two-thirds vote of all members, and notice to the Public Examiner of the State.

Dividends may be declared semi-annually, but one-tenth of net profits must be carried to the surplus fund until same amounts to 20 per cent. of capital.

Qualifications of Directors. Every director must own at least ten shares in his own right, must be sworn, and oath filed with Public Examiner.

Reports. At least four reports shall be made each year to the Public Examiner and published, and the Examiner is empowered to call for special reports at any time. Penalty of \$200 for not making same.

Reserve Fund. Association shall at all times have on hand in available funds an amount equal to 20 per cent. of its deposits. Whenever such funds get below 20 per cent. of deposits, liabilities must not be increased. Examiner may require reserve fund to be made good, and failure so to do for thirty days subjects to a penalty of not less than \$100 nor over \$500, to be imposed by Public Examiner.

Responsibility of Shareholders. Each shareholder shall be individually responsible, equally and ratably, for all contracts and debts to the extent of his stock and unpaid installments.

Security. No loans shall be made on security of shares of its own stock. Association can not purchase or hold such stock except to prevent loss.

Total Loan to One Concern. Not to exceed 15 per cent. of capital paid in may be loaned to any one borrower, including the individual members of a company or firm.

Violations of the provisions of the Act, and false entries, and the receipt of deposits when insolvent, are punished by fine and imprisonment.

Existing banks must comply with the Act within six months under penalty of fine and imprisonment of persons interested. Any failure to comply with requirements of Public Examiner for period of ninety days forfeits franchise of Association.

Public Examiner is ex-officio Superintendent of Banks, and must as often as once each year make a full examination and report to the Governor, and a copy of said report shall be filed with Secretary of State and open to all persons doing business with association.

The Board of Directors in February and August of each year must thoroughly examine into all matters of the bank and report results, and the report shall be spread on the record of the bank in detail and examined by the Public Examiner.

If the Bank is deemed insolvent the Examiner may apply to the District Court for the appointment of a receiver.

COMMERCIAL LAW.

Acknowledgments of deeds or other instruments may be made at any place within this State, before a Justice or Clerk of the Supreme Court, or before a Notary Public (within any county where his commission is recorded) within the judicial district, county, subdivision, or city for which the officer was elected or appointed, before a Judge or a Clerk of a court of record, a Mayor of a city, a Register of Deeds, a Justice of the Peace, a United States Circuit Court Commissioner, a County Clerk or a County Auditor; without the State, but within the United States and within the jurisdiction of the officer, before a Justice, Judge, or Clerk of any court of record of the United States, or Clerk of any court of record of any State or Territory, a Notary Public, any other officer of the State or Territory where made authorized by its laws to take acknowledgments, a Commissioner appointed for the purpose by the Governor of this State; without the United States, before a Minister, Commissioner, or Charge d'Affaires of the United States resident and accredited in the country where made, a Consul, Vice-Consul, or Consular Agent of the United States resident where made, a Judge of a court of record of the country where made, or a Notary Public of such country. When any of the officers named are authorized to appoint a deputy, the acknowledgment may be taken by such deputy in the name of his principal. An acknowledgment must not be taken unless the officer taking it knows or has satisfactory evidence, on the oath or affirmation of a credible witness, that the person making such acknowledgment is the individual who is described in and who executed the instrument, or if executed by a corporation, that the person making such acknowledgment is the president or secretary of such corporation. Instruments affecting real property, except judgments affecting the title to or possession of, and letters patent from the United States, and final receivers' receipts from the United States land offices, must be acknowledged. A conveyance or other instrument executed by a married woman has the same effect as if she were unmarried, and may be acknowledged in the same manner.

Assignments for the benefit of creditors may be made by an insolvent debtor to one or more assignees in trust toward the satisfaction of his creditors, but subject to the provisions of the civil code relative to trusts and to fraudulent transfers, and the law restricting assignments by special partnerships, by corporations, or by other specified classes of persons. Assignments containing any trust or condition preferring one creditor over another not valid. A debtor is insolvent when unable to pay his debts from his own means as they become due. Property exempt from execution and insurance upon life of assignor do not pass by general assignment unless specially mentioned.

Attachment may be had of debtor's real or personal property, debts, moneys, credits, and bank notes in actions on contract for the recovery of money only, or for the wrongful conversion of personal property, against a corporation created by or under the laws of any other Territory, State, government, or country, or against a debtor who is not a resident of this State; or against a debtor who has absconded or concealed himself; or whenever any person or corporation is about to remove any of his or its property from this State; or has assigned, disposed of, secreted, or is about to assign, dispose of, or secrete any of his or its property with intent to defraud creditors; or the debt was incurred for property obtained under false pretenses. The warrant of attachment may be issued at the time of issuing the summons or at any time afterward. Plaintiff must make affidavit showing the necessary facts, and furnish undertaking, for not less than \$250 nor more than the amount claimed in the action, in the District Court; and in Justice's Court for not less than \$50 nor over \$300. No process of garnishment, *eo nomine*.

Courts. There are six Judicial Districts. The District Courts have exclusive jurisdiction in equity and at common law above \$200,

Original from

and where the title or boundary of real property is in question. Two terms of District Court are held each year in all organized counties. Each organized county has a County Court, and the County Courts have exclusive probate jurisdiction. Justices' jurisdiction is \$200.

Exemptions. Absolute exemptions are family pictures, pew in house of worship, a lot or lots in burial ground, family bible and school books used by the family and other books used as a part of the family library, and not exceeding \$100 in value, all wearing apparel and clothing of debtor and his family, one year's necessary supply of provisions for debtor and family, provided growing, or both, and one year's fuel, and the homestead, not exceeding \$5,000 in value, except against mechanics' or laborers' liens thereon, debts secured by mortgage thereon, debts for purchase money thereof, and taxes thereon. Husband and wife must join in conveyance of homestead of either. In addition to said absolute exemptions, debtor may select from all other of his personal property, goods, chattels, merchandise, money or other personal property up to \$1,500 in value, to be ascertained by appraisal. No personal property, except absolute exemptions, is exempt from execution for laborers' or mechanics' wages (or physicians' bills after six months), or for property obtained under false pretenses. No property is exempt from execution for the purchase money thereof.

Executions. Judgment creditor may take out execution at any time within five years after judgment or the return of previous execution. At least ten days' notice of sale of personal property on execution must be given, and at least thirty days' of the sale of real property. Executions must be returned within sixty days. There are no stay laws, but in case of an appeal, execution may be stayed by a supersedeas bond. Real property sold on execution may be redeemed within one year.

Husband and Wife. (See *Married Women.*)

Interest. Usury. The legal rate of interest is 7 per cent. per annum, unless a different rate, not exceeding 12 per cent., is contracted for in writing, and contracts shall bear the same rate after as before due, unless otherwise expressed. It is usury to take more than 12 per cent. per annum. A contract for usury forfeits all interest. If usury has been paid, twice the amount of interest and usury may be recovered back by action commenced within two years.

Judgments of courts of record are a lien on all real estate of the judgment debtor, except the homestead, for ten years from time such judgment is docketed in the Clerk's office of the county where the land is situated. By having execution issued every five years, judgments may be kept good for twenty years. In District Courts, judgment by default may be obtained after thirty days from service of summons. In Justices' Courts, summons must be served not less than three nor more than twelve days before day of hearing.

Limitations. Personal actions, two years; on contracts or obligations not under seal, six years; on sealed instruments, judgments, or decrees of any court, and in real action, twenty years.

Married Women retain their own real and personal property, and may make contracts, sue and be sued as if sole. Neither husband nor wife has any interest in the property of the other except under the statute relating to the homestead; but neither can be excluded from the other's dwelling. They may enter into any engagement or transaction with each other, subject to the general rules which control the actions of persons occupying confidential relations with each other. Dower and curtesy are abolished. A married woman retains the same legal existence and personality after as before marriage, and shall receive the same protection of all rights as a woman which her husband does as a man. Neither husband nor wife, as such, is answerable for the acts of the other. The earnings of the wife are not liable for the debts of the husband. The separate property of the husband is not liable for wife's debts contracted before marriage; nor separate property of wife for husband's debts, but is liable for her own debts contracted before or after marriage. A woman possessing the qualifications of an elector as to age, residence, and citizenship may be appointed a notary public.

Mortgages of real property must be in writing, and executed as required in case of a grant of real property. Neither husband nor wife need join the other in mortgage except of homestead. If containing power of sale, mortgage of real property may be foreclosed by advertisement, at least once a week for six successive weeks, in a newspaper of the county where the real property is situated. If no power of sale in the mortgage, it must be foreclosed by action. Mortgagor may redeem from foreclosure sale within one year. Possession of real property sold upon foreclosure not delivered to purchaser until end of year of redemption, but purchaser may collect rents from tenant in possession during year of redemption. Chattel mortgages are void as against attaching creditors and subsequent purchasers and incumbrancers in good faith for value, unless original or an authenticated copy be filed in office of Register of Deeds within the county where the property mortgaged, or any part thereof, is at such time situated. If not renewed within not less than ten or more than thirty days next preceding the expiration of three years by filing a copy of such mortgage, with a statement of the debt subscribed and sworn to by mortgagee, his assignee, his agent or attorney, chattel mortgage ceases to be valid as against the original mortgagee and mortgagor, his heirs or assigns, and against any attaching or execution creditor of mortgagor, or any prior or subsequent purchaser or mortgagee. A chattel mortgage taken by insurance company is void unless taken by an instrument distinct from application. Mortgagor or his grantee or assignee may redeem from sale of chattels under any chattel mortgage executed after the 6th day of March, 1891, within five days after sale, excluding said day, by paying amount for which property was sold and costs of sale and 7 per cent. interest, and the Sheriff or other person making sale must retain possession of said property for said five days and be entitled to his reasonable expense for caring for same.

Negotiable Instruments. The civil code designates six classes of negotiable instruments: (1) Bills of exchange; (2) promissory notes; (3) bank notes; (4) checks; (5) bonds; (6) certificates of deposit. When no time of payment is specified, they are payable immediately. When no place of payment is specified, they are payable at the residence or place of business, or wherever maker may

be found. Bill or note maturing on a holiday becomes due on next business day. The apparent maturity of a bill of exchange payable at sight or on demand is, if it bears interest, one year after its date; if it does not bear interest, ten days after its date, in addition to sufficient time to forward it for acceptance. The apparent maturity of a note payable at sight or on demand, if it bears interest, is one year after its date; if it does not bear interest, six months after its date. A note payable at a certain time after sight or demand, such time is to be added to last named periods. Three days of grace allowed on foreign or inland bills of exchange or drafts payable at sight, or promissory notes, bills of exchange, and drafts on the face of which time is given or specified, and on notes due on demand, after demand is made. Sundays and holidays are excluded from computation of days of grace, and they expire on the succeeding business day. Acceptance of a bill must be made in writing by the drawee or an acceptor for honor. To hold indorser, the instrument must be presented at maturity and notice of dishonor given. Holidays are Sundays, the 1st day of January, 22d day of February, 30th day of May, 4th day of July, 25th day of December, any general election day, any day appointed by the President of the United States or by the Governor of the State for a public fast, thanksgiving, or holiday. If the 1st of January, 22d of February, 4th of July, or 25th of December falls on Sunday, the Monday following is a holiday.

Suits. Actions are commenced by service of a summons. Service may be made by leaving copy with defendant personally, or by delivering a copy to a member (over fourteen years of age) of defendant's family at defendant's dwelling-house; or, in case the defendant is a non-resident, by publication. The practice in the District Courts is governed by a Code of Civil Procedure; in Justices' Courts, by Justices' Code.

Taxes become due and payable on the first day of December in each year. All unpaid personal property taxes become delinquent March 1st of each year, at which time 5 per cent. penalty is added. Taxes upon real property become delinquent June 1st of each year, and 1 per cent. a month penalty is added, and on the first day of October an additional penalty of 5 per cent. accrues. County Auditor sells lands for unpaid taxes on the first Tuesday of December in each year. Lands sold for taxes may be redeemed within three years by payment of all delinquent taxes, costs, penalties, and interest at 15 per cent. per annum. Taxes become a lien as between grantor and grantee on the first day of December in the year levied. No deed of land can be recorded without County Auditor's certificate thereon that all taxes are paid.

OHIO.

BANKING LAW.

(Revised by DAVIDSON & CONWAY, Attorneys at Law, Cincinnati.)

The question of State banking is of very little importance in this State, although it occupies fifty-two pages of the Revised Statutes, pages 1833 to 1886. There are provisions for a "State bank" and branches, "independent banking companies" and "free banking." The Revised Statutes, Section 3817-18, provide: "Every banking institution or corporation engaged in the business of banking, organized under the laws of this State, shall make a report to the Auditor of the State, showing the condition at the opening of business on the first Monday of April and October of each year. The report must be verified by oath or affirmation of the officers, and published in a newspaper. There is no examiner for the State banks. Article XIII., Section 7, of the constitution, says: "No act of the General Assembly authorizing associations with banking powers shall take effect until it shall be submitted to the people at the general election next succeeding the passage thereof, and be approved by a majority of all the electors voting at such election."

Savings and loan associations may invest their funds in the purchase of stocks, bonds, or other evidences of the indebtedness of the United States, stocks and bonds of the State of Ohio, bonds of any municipal corporation of this State, or school bonds of any municipal corporation, special school district, or body politic in this State, issued pursuant to law, to such an amount as may be deemed proper; or in bonds issued by County Commissioners within this State in pursuance of law; or the stocks or bonds of any State of the United States that has for five years, immediately preceding such investment, paid the interest on its bonded debt in lawful money of the United States; but no such association shall at any time have an investment of a greater amount than one-tenth of its paid-in capital in either of the last two named securities; or in bonds or notes secured by mortgages on unincumbered real estate situate in the county where the association is located, or in an adjoining county in this State, worth, exclusive of buildings, at least double the amount loaned thereon.

COMMERCIAL LAW.

Acknowledgments. A deed, mortgage, or lease of any estate or interest in real property, shall be signed by the grantor, mortgagor, or lessor, and such signing shall be acknowledged by the grantor, mortgagor, or lessor in the presence of two witnesses, who shall attest the signing and subscribe their names to the attestation, and such signing shall also be acknowledged by the grantor, mortgagor, or lessor before a Judge of a court of record in this State, or a Clerk thereof, a County Auditor, County Surveyor, Notary Public, Mayor, or Justice of the Peace, who shall certify the acknowledgment on the same sheet on which the instrument is written or printed, and subscribe his name thereto. When executed, acknowledged and proved out of this State, in accordance with the laws of the place where executed, they will be as valid as if executed in this State. A deed, mortgage, or lease of any estate or interest of a married per-

Original from

son in real property, shall be signed, attested, acknowledged, and certified in the manner prescribed in the preceding section.

Assignments. An insolvent debtor may make an assignment in trust for the benefit of creditors. Assignee must, within ten days after delivery of assignment to him, produce the original assignment, or copy thereof, in the Probate Court, file same and enter into a bond in such sum and with such sureties as court shall approve. Notice of appointment, for three successive weeks, in newspaper of general circulation, shall be given after bond entered into, and creditor shall within six months after publication of notice present claim with affidavit that said claim is just and lawful, the consideration thereof, and what, if any, set-offs or counter-claims exist thereto; what collateral or personal security, if any, the claimant holds for same, or that he has no security whatever. Any surety or person jointly liable with assignor is allowed to present and prove his claim on which he is bound. Suit must be brought on rejected claims within thirty days. Assignment made in contemplation of insolvency, with intent to prefer one or more creditors, inures to the benefit of all creditors. Assignment made with intent to hinder, delay or defraud creditors, shall be declared void at the suit of any creditor, and such assignment, after having been declared void, or a preferred assignment, is cause for the appointment of trustee. No assignment shall be construed to include property exempt, unless the exemption is expressly waived. Preferred claims are: Taxes of every description assessed against assignor, and wages for all labor performed by any one in the assignor's service within twelve months preceding the assignment, not exceeding \$300.

Attachment in a civil action for the recovery of money may be had when defendant is non resident or a foreign corporation, or has absconded or concealed himself, or is about to remove, convert or assign, or has concealed his property with intent to defraud creditors, or where the debt was fraudulently or criminally contracted. Plaintiff must give bond in double the amount at issue, except where defendant is a non-resident or a foreign corporation, when a bond is not required. Defendant can be arrested in a civil action on all except the first two grounds given above. Garnishee process may be had in aid of attachment against any debtor of the defendant. A citizen of this State may be enjoined from prosecuting an attachment in another State against a citizen of this State, to subject to the payment of his claim the earnings of the debtor, which by the laws of this State are exempt from being applied to the payment of such claim. *Attachment before debt due.* A creditor may bring an action on his claim before it is due and have an attachment against the property of his debtor: *First.* When a debtor has sold, conveyed, or otherwise disposed of his property with the fraudulent intent to cheat or defraud his creditors or to hinder or delay them in the collection of their debts; or, *Second.* Is about to make such sale, conveyance or disposition of his property with such fraudulent intent; or, *Third.* Is about to remove his property, or a material part thereof, with the intent to cheat and defraud his creditors, or to hinder and delay them in the collection of their debts. The plaintiff must give bond as in other cases of attachment, and must by himself, his agent or attorney, before the action is brought or attachment issued, make an oath in writing, showing the nature and amount of his claim; that it is just; when it will become due, and the existence of any of the grounds above mentioned.

Bills of Lading. Executing or delivering, indorsing or assigning, a false or fictitious bill of lading, with intent to defraud, or attempting so to do, is punishable by imprisonment in penitentiary not more than four nor less than one year.

Corporations. Stockholders are liable to creditors, in addition to their stock, in an amount equal to the stock held by them. No foreign stock corporation, other than a banking or insurance corporation, shall do business in this State without having procured from the Secretary of State a certificate that it has complied with all the requirements of law to allow it to do business in this State, among which are provisions for obtaining service on same within this State.

Courts. Terms and Jurisdiction. Justices' Courts have exclusive original jurisdiction of any sum not exceeding \$100, and concurrent jurisdiction with the Court of Common Pleas of any sum from \$100 to \$300. If either plaintiff or defendant, in an action before a Justice of the Peace, claims more than twenty dollars in his bill of particulars, the case may be appealed to the Court of Common Pleas; but if neither party demand a greater sum than twenty dollars, and the case is tried by a jury, there shall be no appeal. If the items constituting the cause of action or defense be set out in the bill of particulars, counter claim or set off, and is verified by the affidavit of the party, his agent or attorney, the party so doing shall be entitled to judgment without further proof upon failure of the other party to appear. Superior Courts of Cincinnati and Cleveland have the same general jurisdiction within those cities respectively, in actions for debt, that is exercised by the Courts of Common Pleas. Common Pleas Courts have original jurisdiction where the amount in controversy exceeds \$100. The Circuit Courts and Supreme Court have no original jurisdiction of commercial importance. Probate Courts have control of the estates of insolvents, decedents, minors, imbeciles, and habitual drunkards, and have exclusive original jurisdiction in the settlement of said estates. There are four terms a year, but the Court is always in session.

Deeds. All deeds and instruments of writing for the conveyance or incumbrance of any lands, tenements, or hereditaments, except mortgages, shall be recorded in the office of the Recorder of the county in which the premises are situated; and, until so recorded or filed for record, the same shall be deemed fraudulent, so far as relates to a subsequent *bona fide* purchaser, having at the time of purchase no knowledge of the existence of such former deed or instrument.

Dower. A widow or widower who has not relinquished or been barred of the same, shall be endowed of an estate for life in one-third of all the real property of which the deceased consort was seized as an estate of inheritance at any time during the marriage, and in one-third of all the real property of which the deceased consort, at decease, held the fee simple in reversion or remainder; and also in one-third of all the title or interest that the deceased consort had, at decease, in any real property held by article, bond, or other evidence of claim; and the widow or widower may remain in the

mansion house of the deceased consort, free of charge, for one year, if dower is not sooner assigned; but dower shall not be assigned to any widow or widower in any real property of which the deceased consort, at decease, held the fee simple in reversion or remainder, until the termination of the prior estate.

Executions issue from the Court of Common Pleas to any county. Execution against the person will only issue when the Judge of one of the Superior Courts is satisfied of the existence of cause—such as concealment of property by the debtor—or where debtor was arrested before judgment and not discharged under the law. Lands levied on must be appraised by three disinterested freeholders, and can not be sold for less than two-thirds of such appraisement. Executions are stayed before Justices, by entering into a bond to adverse party within ten days after rendition of judgment, on judgments for \$5 and under, sixty days; \$5 and under \$20, ninety days; \$20 and under \$50, 150 days; \$50 and upward, 240 days. No stay on judgment in favor of any person for wages due for manual labor performed.

Exemptions. Every person who has a family, and every widow, may hold the following property exempt from execution, attachment or sale for any debt, damages, fine or amercement: *First.* The wearing apparel of such person or family, beds, bedsteads and bedding necessary for the same, one cooking stove and pipe, one stove and pipe used for warming the dwelling, and fuel for sixty days, actually provided, and designed for the use of such person or family. *Second.* One cow, or if the debtor owns none, household furniture to be selected by such debtor not exceeding \$35 in value; two swine or the pork therefrom, or if the debtor owns no swine, household furniture to be selected by such debtor not exceeding \$15 in value; six sheep, their wool and the cloth or other articles manufactured therefrom, or in lieu thereof household furniture, to be selected by the debtor, not exceeding \$15, and food for such animals for sixty days. *Third.* Bibles, hymn books, psalm books, testaments and school books used in the family, and all family pictures. *Fourth.* Provision actually provided and designed for the use of such person or family not exceeding \$50 in value, and other articles of household or kitchen furniture necessary for such person or family, not exceeding \$50 in value. *Fifth.* One sewing machine, one knitting machine, and all the tools and implements of the debtor necessary for carrying on his or her trade or business, whether mechanical or agricultural, not exceeding \$100 in value. *Sixth.* The personal earnings of the debtor and of his or her minor child or children for three months, when it is made to appear by affidavit that such earnings are necessary for such person or family. *Seventh.* All articles, specimens and cabinets of natural history or science, except such as are intended for show or exhibition for money or pecuniary gain. *Eighth.* Every drayman, who is the head of a family, in addition to the above exemptions, shall hold one horse, harness and dray exempt from execution. Every agriculturist who is the head of a family, in addition to the exemptions specified in clauses one to seven inclusive, shall hold exempt from execution one horse or one yoke of cattle with the necessary gearing for the same, one wagon; and every practitioner of medicine, the head of a family, in addition to the exemptions specified in clauses one to seven inclusive, shall hold exempt one horse, one saddle and bridle, and also books, medicines and instruments pertaining to his profession, not exceeding \$100 in value. Every unmarried woman may hold the following property exempt from execution, attachment or sale: *First.* Wearing apparel not exceeding \$100. *Second.* One sewing machine. *Third.* One knitting machine. *Fourth.* A Bible, hymn book, psalm book and any other books not exceeding in value \$25. Any beneficiary fund, not exceeding \$5,000, set apart, appropriated or paid by any benevolent association or society according to its rules and regulations to the family of any deceased member, or to any member of such family, shall not be liable to be taken by any process or proceedings, legal or equitable, to pay any debt of such deceased member. The regalia, insignia of office, journals of proceedings, account books and the private work belonging to any benevolent society in this State, shall be exempt, etc. All property used by any municipal corporation or fire company for the purpose of extinguishing fire shall be exempt, but the owner may create liens thereon by mortgage, etc. Husband and wife living together, a widower living with an unmarried daughter or minor son, every widow and every unmarried female having in good faith the care, maintenance and custody of any minor child or children of a deceased relative, residents of Ohio, and not the owner of a homestead, may, in lieu thereof, hold exempt from levy and sale real or personal property to be selected by such person, his agent or attorney, at any time before sale, not exceeding five hundred dollars (\$500) in value, in addition to the amount of chattel property otherwise by law exempted. No exemption runs against claim for labor amounting to less than \$100.

Homestead. Husband and wife living together, a widow or a widower living with an unmarried daughter or unmarried minor son, may hold exempt from sale on judgment or order a family homestead not exceeding \$1,000 in value; the wife may make demand if the husband refuse, but neither can make such demand if the other has a homestead. Where the homestead is sold for the payment of liens thereon, after payment of such liens, the owner may claim \$500 out of the balance of the proceeds of sale, if any, in lieu of a homestead.

Interest. The legal rate is six per cent. Parties may contract in writing for eight per cent. No penalty is attached for the violation of the law. If a contract is made for a higher rate than eight per cent., the contract as to interest is void, and the recovery is limited to the principal sum and six per cent. Interest is computed upon judgments and decrees at the rate specified in the instrument upon which said judgment or decree is rendered. Interest is not recoverable on open running accounts, when there are no circumstances from which an agreement to allow interest can be inferred, and there has been no vexatious delay of payment. Open accounts draw interest after statement is made and account rendered. Interest from and after maturity may be allowed on items of wages or salary, payable monthly.

Judgments are a lien on real property of defendant within the county, which lien continues for five years. If execution be not levied within one year after the rendition of the judgment, said

judgment shall not operate to the prejudice of any other *bona fide* judgment creditor.

Liens. Laborers and employes of any persons, association of persons or corporation, whether such employment be at agriculture, mining, manufacture, or other manual labor, have a lien upon the real property of their employers for their wages. Such lien is declared to be superior to the following liens taken or attaching during the existence of such unpaid labor claims, to-wit: liens of attachment, liens of mortgage given or taken at a time of actual insolvency of the debtor, or with a view of preferring creditors, or to secure a pre-existing debt, and superior to all claims of homestead or other exemptions, except exemptions allowed to the head of a family and to a widow. The lien is deemed waived by the laborer or employe as to any portion of such labor, unless within thirty days from the expiration of three months from the performance of such portion, he files with the recorder of the county where the labor was performed, an itemized statement, verified by affidavit, of the amount, kind and value of the labor performed within said period, with all credits and offsets, and the amount then due him therefor, which verified statement, when so filed and recorded in a book kept for that purpose, becomes a lien upon the real property of the employer without any specific description thereof, for the period of one year from and after the filing thereof; and, if action be brought to enforce the lien within that time, it continues in force until finally adjudicated.

Limitations of Suits. On contracts not in writing, express or implied, six years; specialty or any agreement in writing, fifteen years; real actions, twenty-one years. An action may be taken out of the statutes by part payment, acknowledgment, or promise in writing.

Married Women. A married woman shall sue and be sued as if she were unmarried, and her husband shall be joined with her only when the cause of action is in favor of or against both her and her husband. When a married woman sues or is sued, like proceedings shall be had and judgment rendered and enforced as though she were unmarried, and her property and estate shall be liable for any judgment against her, but she shall be entitled to the benefit of all exemptions to heads of families. Any estate or interest, legal or equitable, in real or personal property, including rights in action, belonging to a woman at her marriage, or which may come to her during coverture, by conveyance, gift, devise or inheritance, or by purchase with her separate money or means, or due as the wages of her personal labor, or growing out of any violation of her personal rights, shall, together with the rents, incomes, issues and profits thereof, be and remain her separate property. The separate property of the wife shall be under her sole control, and shall not be taken by any process of law for the debts of the husband, or be in any manner conveyed or incumbered by him, and she may, in her own name, during coverture, contract to the same extent and in the same manner as if she were unmarried, and she may convey the same without her husband joining with her in the deed; but if the husband does not join, he is not barred of his dower. Neither husband nor wife, as such, is answerable for the acts of the other.

Mortgages must be executed as deeds, and the first mortgage recorded has the preference. Are foreclosed by suit in the Court of Common Pleas, and there is no redemption of lands sold under foreclosure after confirmation of sale by the Court. Chattel mortgages, or a true copy thereof, must be deposited with the Clerk of the township where the mortgagor resides at the time of the execution thereof, if a resident of the State, and if not such resident, then with the Clerk of the township in which the property so mortgaged is situated at the time of the execution of the instrument; but when the mortgagor is a resident of a township in which the office of County Recorder is kept, or when he is a non-resident of the State and the property is within such township, the mortgage shall be filed with the County Recorder. Every mortgage so filed shall be void, as against the creditors of the person making the same, or against subsequent purchasers or mortgagees in good faith, after the expiration of one year from the filing thereof, unless, within thirty days next preceding the expiration of the said term of one year, a true copy of said mortgage, together with a statement verified, exhibiting the interest of the mortgagee in the property at the time last aforesaid, claimed by virtue of such mortgage, is again filed in the office where the original was filed.

Notes and Bills of Exchange. All bonds, notes and bills payable at a day certain after date, or after sight, are entitled to three days of grace in the time of payment. When the third day of grace is the first day of the week, the demand shall be made on the next preceding business day. The 1st day of January, the 30th day of May, the 4th day of July, the 25th of December, 22d of February, the first Monday in September, and any day appointed or recommended by the Governor of Ohio, or the President of the United States, as a day of fast or thanksgiving, is treated and considered as the first day of the week. When the 1st day of January, 4th day of July, the 25th day of December, the 30th day of May, or the 22d day of February, shall be the first day of the week, the succeeding Monday is also treated and considered as the first day of the week. When made payable to order or bearer, they are negotiable by indorsement thereon, and vest the title thereof in indorsee. They need not be payable at a bank, or any particular place, to be negotiable.

Partnerships. Limited partnerships for the transaction of mercantile, mechanical, manufacturing or mining business within this State, may be formed by two or more persons in accordance with statute, in which one or more partners are generally liable, and the special partner or partners are liable only for the amount of capital contributed. The style is the names of the general partners, followed by "& Co." Limited partnership associations may be formed, in accordance with the statute, by any number of persons, not less than three nor more than twenty-five, for conducting any lawful business, except banking and dealing in real estate, by subscribing and contributing capital thereto. Any member thereof shall be liable only to the extent of his capital stock therein for the debts of such association. The name of such association shall end with the word "limited."

Suits. There is but one form of action, known as a civil action, which must be prosecuted in the name of the real party in interest, except as to administrators, trustees, etc. In certain cases service may be made by publication.

Taxes are due on December 20 of each year, but the party charged may at his option pay one-half then and the remainder on or before June 20 following. Lands delinquent for three semi-annual installments are sold by the County Treasurer. Owner can redeem within two years by paying amount for which the land was sold, all subsequent taxes and interest, and a penalty of fifteen per cent. if redeemed within one year, and twenty-five per cent. if within two years. Lands offered for sale by the County Treasurer, and not sold for want of bidders, become forfeited to the State, and are again offered once in each two years until sold for the delinquent and accrued taxes. The owner of forfeited lands may redeem the same at any time within six months by depositing with the Treasurer the amount of sale and costs, together with fifty per cent. penalty thereon.

Time. Central Standard Time is the legal time throughout the State.

Wills. Every last will and testament (except nuncupative wills) shall be in writing, and signed at the end thereof by the party making the same, or by some other person in his presence and by his express direction, and shall be attested and subscribed in the presence of such party by two or more competent witnesses who saw the testator subscribe or heard him acknowledge the same. A verbal will made in the last sickness shall be valid in respect to personal estate if reduced to writing and subscribed by two disinterested competent witnesses within ten days after the speaking of the testamentary words, and is properly probated within six months from death of the testator.

OKLAHOMA TERRITORY.

BANKING LAW.

(Revised by BIERER & COTTERAL, Attorneys at Law, Guthrie.)

By Act of Congress, National banks may be incorporated and organized as in the States, except that only three months' residence of directors is required.

Legislative enactment provides that it shall be unlawful for bank president, cashier, other officer, or clerk, to receive, or permit, or assent to reception of money deposit, or thing of value; or to create or assent to creation, of any debt by bank after he shall have knowledge of insolvency. It is made the duty of each of such persons to know the bank's condition. For violation of such law, all such persons are to be held individually liable, and may be sued either jointly or severally. Such violation is also larceny, and is punishable as for the same.

COMMERCIAL LAW.

Acknowledgments. Conveyances of real estate or interest therein, for the term of more than one year, shall be invalid, unless declared in writing. Within the Territory instruments may be acknowledged before a Judge or Clerk of the Supreme Court or of the District Courts, a County or Probate Judge, County Clerk, Notary Public, Justice of the Peace, Mayor of a city, Register of Deeds, United States Circuit or District Court Commissioner, and County Auditor. Outside of the Territory, and within the United States, before a Justice, Judge, or Clerk of any Court of Record of the United States or any State or Territory, a Notary Public, any other officer of the State or Territory where acknowledged, in conformity to its laws upon the subject, a Commissioner of Deeds, etc., appointed by the Governor of this Territory. Without the United States, before a Minister, Commissioner, or Charge d'Affaires of the United States, resident and accredited in the country where acknowledged, a Consul, Vice-Consul, or Consular Agent of the United States, resident in the country where acknowledged, a Judge of a Court of Record where acknowledged, or a Notary Public of such country. An unrecorded instrument is valid as between the parties thereto, and those who have notice thereof.

Assignments may be made by insolvent debtor, but without preference, for the benefit of all creditors. If, upon trust or condition that gives any creditor preference or priority, it shall not be valid, but in such cases property of insolvent shall become a trust fund and inure to the benefit of all creditors, in proportion to their claims. Must be in writing, subscribed by the assignor, or his agent, authorized in writing, must be acknowledged, and together with verified inventory of assets, liabilities, creditors, and property exempt or not exempt, must be recorded in the office of the register of deeds within twenty days. Within thirty days after date of assignment, assignee must give bonds in double the value of property assigned, to be approved by the district judge, conditioned for faithful discharge of trust, etc. After the lapse of six months, on motion of any creditor, assignee shall report and render account of his proceedings within fifteen days, at discretion of the judge, to whose order all proceedings are subject. Insurance and property exempt do not pass in assignment unless specially mentioned. An assignment may not afterwards be canceled or modified without the consent of every creditor affected thereby.

Attachments. The plaintiff in a civil action for the recovery of money may, at or after the commencement thereof, have an attachment against the property of the defendant, and upon the grounds herein stated: *First.* When the defendant, or one of several defendants, is a foreign corporation, or a non-resident of this territory (but no order of attachment shall be issued on the ground or grounds in this clause stated, for any claim other than a debt or demand arising upon contract, judgment or decree, unless the cause of action arose wholly within the limits of this territory, which fact must be established on the trial); *Second.* When the defendant, or one of several defendants, has absconded with intention to defraud his creditors; or, *Third.* Has left the county of his residence to avoid the service of summons; or, *Fourth.* So conceals himself that a ~~Original~~ ^{Original} ~~from~~ ^{from} man not be served upon him; or,

Fifth. Is about to remove his property, or a part thereof, out of the jurisdiction of the Court, with the intent to defraud his creditors; or, *Sixth.* Is about to convert his property or a part thereof, into money, for the purpose of placing it beyond the reach of his creditors; or, *Seventh.* Has property or rights in action, which he conceals; or, *Eighth.* Has assigned, removed or disposed of, or is about to dispose of, his property or a part thereof, with the intent to defraud, hinder or delay his creditors; or, *Ninth.* Fraudulently contracted the debt, or fraudulently incurred the liability or obligations for which suit is about to be or has been brought; or, *Tenth.* Where the damages for which action is brought are for injuries arising from the commission of some felony or misdemeanor, or the seduction of any female; or, *Eleventh.* When the debtor has failed to pay the price or value of any article or thing delivered, which by contract he was bound to pay upon delivery.

An order of attachment shall be made by the Clerk of the Court in which the action is brought, in any case mentioned in the preceding section, when there is filed in his office an affidavit of the plaintiff his agent or attorney, showing: *First.* The nature of the plaintiff's claim; *Second.* That it is just; *Third.* The amount which the affiant believes the plaintiff ought to recover; and *Fourth.* The existence of some one of the grounds for an attachment enumerated in the preceding section.

Where a debtor has sold, conveyed or otherwise disposed of his property, with the fraudulent intent to cheat or defraud his creditors, or to hinder or delay them in the collection of their debts, or is about to make such sale or conveyance or disposition of his property, with such fraudulent intent, or is about to remove his property, or a material part thereof, with the intent or to the effect of cheating or defrauding his creditors, or of hindering or delaying them in the collection of their debts, a creditor may bring an action on his claim before it is due, and have an attachment against the property of the debtor.

Before order issues, the plaintiff must file bond not exceeding double the amount of his claim; but no bond is required in case defendant is a non resident or foreign corporation.

Contracts may be made by all persons except minors, persons of unsound mind, and persons deprived of civil rights. There is no distinction between sealed and unsealed instruments. Minors are males under 21, and females under 18 years of age. Any benefit conferred, or agreed to be conferred upon the promisor by any other person, to which the promisor is not lawfully entitled, or any prejudice suffered or agreed to be suffered by such person, other than such as he is at the time of consent lawfully bound to suffer, as an inducement to the promisor, is a good consideration for a promise. Provisions of the statute of frauds are in force.

Conveyances. Instruments conveying real estate, unless for term under one year, must be declared in writing, and acknowledged by party or his agent duly authorized in writing. Wife must join.

Corporations may be public or private, and formed by filing articles of incorporation with the Secretary of the Territory, and compliance with statute. The incorporation or corporate rights shall not be inquired into collaterally, but such inquiry may be had and action brought at the suit of the Territory.

Each stockholder is individually liable for the debts of the corporation to the extent of the amount that is unpaid upon the stock held by him at the time action is commenced against him. The term stockholder applies as well to every equitable owner, and to every person who has advanced the installment or purchase money in the name of a minor. Stock held as collateral security, or by a trustee, or in any other representative capacity does not make the holder a stockholder within the meaning of these provisions, except as mentioned. Capital stock may be increased by compliance with law, but excess of stock, over charter limit is invalid.

Corporations may be dissolved (1) by expiration of a time named in the articles of incorporation; (2) involuntarily, by judgment on account of neglect, abuse, or surrender; (3) voluntarily, by the district court, upon application, setting forth compliance with statutory requirements, which may be resisted by any person and trial had.

Provisions allowing railroad, wagon-road, banking, eleemosynary corporations and building associations. No corporation of any other State or Territory may transact business or hold and dispose of property in this Territory, without appointing an agent upon whom service of legal process may be made, and an authenticated copy of such commission shall be filed and recorded in the office of the Secretary of the Territory, and of the Register of Deeds of the county where such agent resides. It shall also file a copy of charter or articles of incorporation with the Secretary of the Territory; and the agent referred to, shall reside in the county where the principal business of the corporation is to be conducted.

Courts. The courts of the Territory are: Supreme, District, Probate, and Justice of the Peace. Supreme Court has appellate jurisdiction. Justice of the Peace has jurisdiction of civil actions involving less than a \$100. Probate Court has jurisdiction of all matters, probate and civil actions, up to \$1,000. But neither the Probate nor Justice's Court has jurisdiction of actions upon real estate contracts, libel and slander, misconduct in office, or malicious prosecution. The District Court has general jurisdiction. It has also the jurisdiction of the United States District and Circuit courts, but it then sits as separate court.

Depositions may be taken at any time after service upon defendant, before a Judge, a Clerk of Court of Record, County Clerk, Justice of the Peace, Notary Public, Mayor or Chief Magistrate of any city or town corporate, etc. Officer must not be a relative or attorney of either party, or otherwise interested. May be taken upon written notice, specifying the action, or proceeding, the name of the court in which it is to be used, and the time and place of taking the same, which notice shall be served upon the adverse party, or his attorney. The notice must be served so as to allow the adverse party sufficient time, by the usual route of travel to attend, and one day for preparation, exclusive of Sunday and the day of service; and the examination may, if so stated in the notice, be adjourned from day to day.

Deposition, after taken, must be sealed, indorsed with the title of the case and the name of the officer taking same, and addressed to the clerk of the court where the action is pending, and must be on file at least one day before the day of trial. The fees of the offi-

cer should be indorsed on the deposition, which may be retained until they are paid, and it should be shown by whom paid.

Executions. All real estate not bound by the lien of the judgment, as well as goods and chattels of the debtor, are bound from the time seized in execution. When two or more writs are sued out against same debtor during the term in which judgment is rendered, or within ten days thereafter, no preference is allowed to either; and if the proceeds fail to satisfy all such executions, they must be distributed among all creditors; but these provisions do not affect any preferable lien under judgment on the land of the debtor.

Writ must be returnable in sixty days, except before Justices of the Peace, where it must be returned in thirty days. First levy to be made upon goods and chattels, but, if none found, then upon lands and tenements.

Exemptions. To the head of a family, not exceeding 160 acres in one tract, including improvements; in city or town, not more than one acre; all household and kitchen furniture, lot in cemetery, all implements of husbandry; tools, apparatus, and books used in trade or profession; family library, portraits, and wearing apparel; five milk-cows and their calves; one yoke of oxen, with yokes and chains; two horses or mules; a wagon, or cart, or dray, or carriage, or buggy; gun; ten hogs, twenty sheep; saddles, bridles, and harness for use of family; provisions; forage on hand or growing for home consumption and for use of exempt stock for one year; current wages and earnings for personal and professional services within last ninety days.

The foregoing are not allowed to a corporation for profit, to a non-resident, to a debtor who is in the act of removing his family from the Territory, or who has absconded, taking with him his family.

To a single person: Lot or lots in cemetery held for sepulcher; all wearing apparel, tools, apparatus, and books belonging to any trade or profession; one horse, bridle, and saddle; one yoke of oxen; current wages for personal services.

The homestead is not exempt where debt is due for purchase money or part of same, for taxes, for work and material used in the construction of improvements thereon, or for liens given by the owner. Personal property is not exempt when the debt is due for rents or advancements of landlord to tenant, or to debts secured by lien. Personal property is not exempt from execution or attachment for wages of clerk, mechanic, laborer, or servant. All pension money is exempt.

Garnishment. Either at the time of the issuing of the summons, or at any time thereafter, before final judgment, in any action to recover damages founded upon contract, express or implied, or upon judgment or decree, or at any time after the issuance, in case of an execution against property, and before the time when it is returnable, the plaintiff, or some person in his behalf, shall file with the clerk an affidavit stating the amount of the plaintiff's claim against the defendant or defendants over and above all offsets, and stating that he verily believes that some person, naming him, is indebted to, or has property, real or personal, in his possession, or under his control belonging to the defendant or either or any of the defendants, in the act on or execution, naming him, and that such defendant has not property liable to execution sufficient to satisfy the plaintiff's demand, and that the indebtedness or property mentioned in such affidavit is, to the best knowledge and belief of the person making such affidavit, not by law exempt from seizure or sale upon execution. Any number of garnishees may be embraced in the same affidavit and summons hereinafter provided for; but if a joint liability be claimed against any, it shall be so stated in such affidavit, and the garnishee named as jointly liable shall be deemed jointly proceeded against; otherwise the several garnishees shall be deemed severally proceeded against: *Provided,* that the order of garnishment shall not be issued by the clerk until an undertaking on the part of the plaintiff has been executed by one or more sufficient sureties, approved by the clerk and filed in his office, in a sum not exceeding double the amount of the plaintiff's claim, to the effect that the plaintiff shall pay to the defendant all damages which he may sustain by reason of such garnishment if the order be wrongfully obtained; but no undertaking shall be required where the party or parties defendant are all non-residents of the Territory, or a foreign corporation. Upon filing of such affidavit, the garnishee summons shall be issued by the clerk and served upon the defendant or his attorney of record, and each of the garnishees, in the manner provided for the service of summons, returnable with proof of service in five days. The form is prescribed by statute. Within the same period the plaintiff may proceed in like manner subsequently against other garnishees, or against the same garnishees upon a new affidavit if he should have reason to believe they have subsequently become liable, and proceedings shall be as in the first named case. The garnishee may, within twenty days from service of summons, file an affidavit in the manner prescribed by statute, disclaiming indebtedness or liability to the defendant, and the proceedings shall be discontinued at the cost of plaintiff, unless the plain iff take issue, in which case the issues shall stand for trial as a civil action, with the affidavit on the part of the plaintiff and the garnishee's affidavit as the pleadings. If any garnishee, having been duly summoned, shall fail to file his affidavit, the court may render judgment against him for the amount the plaintiff shall recover against the defendant. Such garnishee may also be proceeded against as for contempt. When an execution shall have been returned unsatisfied, the judgment creditor may file an affidavit of himself, his agent, or attorney, in the office of the clerk, setting forth that he has good reasons to, and does, believe that any person or corporation, to be named, has property of the judgment debtor, or is indebted to him, and thereupon the clerk shall issue an order requiring such person or corporation to answer, on or before a day to be named in the order, not less than ten, nor more than twenty days from the date of issuing the same, all interrogatories that may be propounded by the judgment debtor, concerning such indebtedness or property. The judgment creditor, or his attorney, shall prepare interrogatories concerning such indebtedness or property, a copy of which shall be served on the garnishee at the time of the service of the order, or within three days thereafter. And the garnishee shall, on or before the day required in the order, file with the clerk true and full answers to all such interrogatories, verified by his affidavit.

All subsequent proceedings against the garnishee shall be the same as in cases of attachment, as far as applicable.

Original from

Interest. The legal rate is 7 per cent. Maximum rate allowed by contract is 12 per cent. Usury forfeits all interest, but does not affect the principal.

Judgments. Judgments are liens against real estate for five years. If rendered before a Justice of the Peace or Probate Judge, they become liens upon the filing of a certified copy with the clerk of the District Court. Judgments bear interest at 7 per cent. per annum. If execution shall not be sued out within five years from the date of any judgment that now is or may hereafter be rendered in any Court of Record in this Territory, or if five years shall have intervened between the date of the last execution issued on such judgment and the time of suing out another writ of execution thereon, such judgment shall become dormant, and shall cease to operate as a lien on the estate of the judgment debtor. Judgment may be revived upon proper application, and after notice, within one year after becoming dormant.

Limitations. Action, if brought upon written contract, within five years; on a contract not in writing, express or implied, or upon statutory liability other than the penalty of forfeiture, within three years. Actions for the recovery of real property sold upon execution must be brought within five years after date of the recording of the deed made in pursuance of sale; for the recovery of real property sold by executors, administrators or guardians upon order or judgment of the court directing such sale, within five years; for the recovery of real property sold for taxes, within two years after the date of the recording of the tax deed; for the recovery of real property not above mentioned, within fifteen years; for the forcible entry and detention of real property, or the latter only, within two years; for trespass upon real property, for taking, detaining or injuring personal property, including actions for the specific recovery of personal property, for injury to the rights of another, not upon contract, and not otherwise enumerated, for relief on the ground of fraud (the cause of action in such case does not accrue until the discovery of the fraud) within two years; for libel, slander, assault and battery, malicious prosecution or false imprisonment, for penalty or forfeiture upon a statute, except where differently prescribed, within one year; upon the official bond or undertaking of an executor, administrator, guardian, sheriff, or any other officer, or upon the bond given in attachment, injunction, arrest or any case whatever required by statute, within five years. For relief not hereinbefore provided for, within five years.

Married Women retain the same legal existence and personality after marriage as before marriage, and receive the same protection of all their rights as women which their husbands do as men; and for an injury sustained to their reputation, person, property, character, or natural rights have the same right to appeal in their own names to courts of law or equity for redress and protection that their husbands have in their own names.

Mortgages. Mortgages of personal property must be signed by the mortgagor and attested by two witnesses, who must sign their names, and no further proof or acknowledgment is necessary. They may be foreclosed by action in court, or by public notice for ten days, and public sale. Chattels covered by mortgage may be levied upon by attachment or execution, if the officer pays or tenders to the mortgagee the amount of the mortgage debt and interest. The mortgage, or an authenticated copy thereof, must be filed with the register of deeds, and if not so filed, it is void as against creditors or subsequent purchasers and incumbrancers in good faith and for value. It becomes invalid after three years as against other creditors, subsequent purchaser or incumbrancers in good faith, but it may be renewed for an additional three years by filing an affidavit of renewal within thirty days before the expiration of the first three years. Real estate mortgages must be executed the same as a grant of real property.

Negotiable Instruments. These are bills of exchange, promissory notes, bank notes, checks, bonds, and certificates of deposit. If without date they are payable immediately, and if without specified place of payment, payable where maker may be found. Valuable consideration is presumed from signature of drawer, acceptor, and indorser. Protest, presentment, and notice may be waived. Waiver of protest waives presentment and notice. Reasonable care and diligence in presentment required. In the absence of express stipulation to the contrary, three days of grace after presentation allowed on all bills of exchange, or drafts payable at sight, but Sundays and holidays are excluded in the computation. Same allowed for payment of all promissory notes, bills of exchange, and drafts where time is specified on face. Notes due on demand subject to like days of grace after demand is made. Damages for accrued interest, re-exchange, expenses, etc., are, if in this Territory, 2 per cent.; in Nebraska, Iowa, Minnesota, Wisconsin, Illinois, and Missouri, 2 per cent., in any other State or Territory, 5 per cent., and in any foreign country 10 per cent. Waiver of presentment waives notice of dishonor also, unless contrary is expressly stipulated; but waiver of notice does not waive presentment.

Procedure. The civil code of the State of Kansas, with slight modifications, is in force in Oklahoma Territory.

Replevin. An order for the delivery of property to the plaintiff shall be made by the clerk of the court in which the action is brought, when there is filed in his office an affidavit of the plaintiff, his agent or attorney, showing: *First.* A description of the property claimed. *Second.* That the plaintiff is the owner of the property, or has a special ownership or interest therein, stating the facts in relation thereto, and that he is entitled to the immediate possession of the property. *Third.* That the property is wrongfully detained by the defendant. *Fourth.* That it was not taken in execution on any order or judgment against said plaintiff, or for the payment of any tax, fine, or amercement, assessed against him, or by virtue of an order of delivery issued under this article, or any other mesne or final process issued against said plaintiff; or, *Fifth.* If taken in execution, or on any order or judgment against the plaintiff, that it is exempt by law from being so taken. *Sixth.* The actual value of the property. When several articles are claimed, the value of each shall be stated as near as practicable. Before the order is issued the plaintiff must execute an undertaking, with one or more sufficient sureties, in not less than double the value of the property involved, and also to the effect that he will return the property to the defendant, if a return thereof be adjudged. Within twenty-four hours after service of a copy of the order, the defendant may recover possession of the property by executing his undertaking to

the plaintiff, to be approved by the sheriff, in not less than double the value of the property set up by the plaintiff in his affidavit; otherwise the sheriff shall deliver the property to the plaintiff.

Taxes. Taxes on real property are a perpetual lien. They are a lien on personal property when delinquent two years. All taxes are due first Monday of February. Land sold for taxes may be redeemed within two years, by payment of amount of purchase, twenty-five per cent. interest, and taxes accrued. Tax deeds issue after two years. Penalty for delinquency, one per cent. a month for three months, and two per cent. a month for second three months, and five per cent. a month thereafter and until taxes are satisfied.

Wills. Married women may make same as if unmarried. To make nuncupative will valid the estate bequeathed must not exceed \$1,000, must be proved by two witnesses who were present at the making thereof, one of whom was at the time asked by the testator to bear witness, or the decedent must, at time, have been in actual military service in the field or at sea, and in actual contemplation, fear, or peril of death. Olographic wills are valid without witnesses. Other wills must be signed by testator, or in his presence, at his direction, and he must, at the time of signing, declare to the attesting witnesses that the instrument is his will, and there must be two attesting witnesses who sign at testator's request and in his presence.

OREGON.

BANKING LAW.

(Revised by GEO. H. DURHAM and H. G. PLATT, Attorneys at Law, Portland.)

There are no State banks, and no laws regulating banks or banking.

Section 1 of Article XI, of the constitution of Oregon, provides that: "The Legislative Assembly shall not have the power to establish or incorporate any bank, or banking company or money institution whatever; nor shall any bank, company, or institution exist in the State with the privilege of making, issuing, or putting into circulation any bill, check, certificate, promissory note, or other paper, or the paper of any bank, company or person to circulate as money."

The business of banking is carried on by National banks, private corporations, firms, and individuals without any restrictions on the part of the State as to what investments they may make, or how their business shall be conducted.

COMMERCIAL LAW.

Acknowledgments may be taken *in the State* by any Judge of the Supreme Court, County Judge, Justice of the Peace, or Notary Public. *Out of the State* before any officer authorized by the laws of the State, Territory or district where made, or by a Commissioner appointed by the Governor of this State for such purpose. If not taken before such Commissioner, or before a Notary Public, certified under his notarial seal, or before the Clerk of a Court of record, certified under the seal of the Court [Laws 1891], it must have attached thereto a certificate of the Clerk or other proper certifying officer of a court of record of the county or district within which it was taken, under the seal of his office, that the person whose name is subscribed to the certificate of acknowledgment was, at the date thereof, such officer as he is therein represented to be, and that he believes the signature of such person subscribed thereto to be genuine; and that the deed is executed and acknowledged according to the laws of such State, Territory or district. (*See Deeds.*)

Arrest. The defendant may be arrested before judgment in an action, either for the recovery of money or damages arising out of contract when he is a non-resident or is about to remove from the State, or for an injury to person, character or property, or detaining or converting property; or for a fine, penalty, or promise to marry; or for money received or property embezzled or fraudulently misapplied, or converted by a public officer, or by an attorney, or by an officer or agent of a corporation, or by any person in a fiduciary capacity; or for misconduct or neglect in office or in professional employment; or to recover personal property fraudulently removed or concealed; or where he has been guilty of fraud in incurring the obligation, or has removed or disposed of his property, or is about to do so with intent to defraud his creditors. The plaintiff must make affidavit and give bond similar to those in attachment. No female can be arrested except in an action for injury to person, character or property. The defendant may be released on bail. A defendant may be arrested after judgment on execution in the above classes of actions. Every person confined in jail on execution may be discharged at the end of ten days upon showing that he has no property not exempt from execution and none conveyed or concealed. After being discharged, the debtor is forever exempt from arrest upon that debt.

Assignments and Insolvency. There is no insolvent law. There is an act governing assignments. No general assignment by an insolvent, or in contemplation of insolvency, for the benefit of creditors, is valid unless made for the benefit of all his creditors in proportion to the amount of their respective claims. The assent of creditors is presumed. The debtor selects his assignee. If not satisfied with the assignee chosen by the debtor, two or more creditors may apply by petition to the Judge of the Circuit Court of county within thirty days from the making or recording of the assignment, and the Judge will order a meeting of the creditors to choose an assignee in lieu of the one selected by the debtor. The assignee elected by the creditors must be a resident of the same county as the assignor. Creditors may appear at the meeting in person or by proxy, but, before being entitled to vote, must present to the County Clerk, who presides at the creditors' meeting, a ver-

Original from

ified statement of their claims. A majority, in number and value, of the creditors attending the meeting, elect an assignee or assignees. All assignees must give bonds in double the value of the estate. An assignment discharges all attachments on which judgment has not been had at the time of the assignment. The assignee must give notice by publication and mailing to creditors, who have three months in which to present claims. Debts to become due, as well as debts due, may be presented. Exceptions may be filed to the demand of any creditor, and the Court will pass upon them. The assignee has full power to dispose of the estate, real and personal, and distributes the proceeds among the creditors *pro rata*, under the order of the Circuit Court, which has exclusive jurisdiction of assignments. When it appears that the debtor has acted fairly and justly, and has been guilty of no fraud, or concealment of his property, and that his estate has been made to realize the fullest amount possible, and not less than fifty per cent. of his indebtedness over and above all expenses, the Court will, upon the allowance of the final account of the assignee, make an order discharging the debtor from all debts existing against him prior to the assignment. A debtor can prefer a creditor by confessing judgment, giving a mortgage or transferring specific property in payment.

Attachment process may be had in actions upon contracts, express or implied, for the direct payment of money, if the contract is not secured by mortgage, lien or pledge upon real or personal property, or, if so secured the security has been rendered nugatory by the act of the defendant. Also in actions upon contract against a defendant not residing in this State. An affidavit must be made showing the existence of the facts, and a bond given equal to the amount of the judgment demanded. Debts owing the defendant may be garnished.

Bills of Lading. Making out or exhibiting any false or fraudulent invoice or bill of lading is punishable by imprisonment.

Corporations. Private corporations are formed under a general law by three or more persons making, subscribing and acknowledging, as in the case of deeds, written articles of incorporation in triplicate—filing one copy with the Secretary of State, and causing the same to be recorded by him in a book to be kept in his office for that purpose; one with the County Clerk of the county where the principal office or place of business of the corporation is to be, and causing the same to be recorded by him in a book to be kept in his office for that purpose, and retaining the third in the possession of the corporation. The articles must specify: (1) the name assumed by the corporation and by which it should be known, and the duration of the corporation, if limited; (2) the enterprise, business, pursuit or occupation in which the corporation proposes to engage; (3) the place where the corporation proposes to have its principal office or place of business; (4) The amount of the capital stock of the corporation; (5) the amount of each share of such capital stock; (6) if the corporation is formed for the purpose of navigating any stream or other water, or making or constructing any railroad, macadamized road, plank road, clay road, canal or bridge, the termini of such navigation, road or canal, or the site of such bridge. After filing the articles of incorporation, the incorporators open books and receive subscriptions to the capital stock. After one-half or more of the capital stock is subscribed, the stockholders meet and elect directors. A director must be a stockholder in the corporation and a resident of the State of Oregon; except, that in corporations for the purpose of constructing railroads or military wagon roads, canals or flumes, or carrying on mining enterprises, or publishing newspapers, or conducting institutions of learning, or for the purpose of conducting any manufacturing business, a minority of the board of directors may reside out of the State. Directors must take an oath of office. The directors elect a president and secretary, and such other officers as are required. The corporation has authority by the name assumed in the articles: (1) to sue and be sued; (2) to contract and be contracted with; (3) to have and use a corporate seal, and the same to alter at pleasure; (4) to purchase, possess and dispose of such real and personal property as may be necessary and convenient to carry into effect the objects of the corporation, and to take, hold, possess and dispose of all real and personal property donated to such corporation by the United States, or by any State, territory, county, city, or other municipal corporation, or by any person, firm, association or private corporation, for the purpose of aiding in the objects of such corporation; (5) to appoint such subordinate officers and agents as the business of the corporation may require, and prescribe their duties and compensation; (6) to make by-laws not inconsistent with any existing law for the sale of any portion of its stock for delinquent or unpaid assessments due thereon; which sale may be made without judgment or execution, provided that no such sale shall be made without thirty days' notice of the time and place of sale in some newspaper in circulation in the neighborhood of such company; for the transfer of its stock, for the management of its property, and for the general regulation of its affairs; (7) in case the object or purpose for which any such corporation is incorporated is in whole or in part to construct, or construct and operate a railroad, to lease any part or all its road to any other company incorporated for the purpose of maintaining and operating a railroad, and to lease or purchase, maintain and operate any part or all of any other railroad constructed by any other company upon such terms and conditions as may be agreed upon between said companies respectively. Any two or more railroad companies whose lines are connected may perfect any arrangement for their common benefit to assist and promote the object for which they were created, provided that nothing in this Act shall be construed to authorize the leasing of any railroad line to any company or corporation owning a road which forms a competing or parallel line to its railroad. The stockholders meet annually and elect directors, who hold their office for one year and until their successors are elected and qualified. The stock in private corporations is personal property and subject to attachment, execution, levy, and sale as such. All sales of stock, whether voluntary or otherwise, transfer to the purchaser all rights of the original holder, and subject such purchaser to the payment of any unpaid balance due on such stock; but if the sale be voluntary, the seller is still liable to existing creditors for the amount of said balance, unless the same be paid by the purchaser. A corporation failing to elect directors and commence the transaction of business within one year from the filing of the articles of incorporation, or ceasing to carry on business for six months, for-

feits its corporate existence. The capital stock may be increased or diminished, or the amount of the shares changed by a majority vote of the stock at a stockholder's meeting called for that purpose. The directors may file supplementary articles of incorporation when authorized by vote of the stockholders, for the purpose of engaging in any new enterprise, etc. The stockholders are liable for the indebtedness of the corporation to the amount of their stock subscribed and unpaid, and no more. Corporations organized for constructing railroads, etc., may exercise the right of eminent domain. Land is condemned to their use, and the compensation to be paid by them fixed by action in the Circuit Court. Foreign corporations, upon complying with the laws of the State, may do business therein as like domestic corporations. Municipal corporations are created by special Acts of the Legislature.

Courts. There is in each voting precinct a Justice of the Peace with limited criminal jurisdiction and civil jurisdiction up to \$250. These courts are always open. Their process can not reach land. A County Court in each county has exclusive probate jurisdiction and civil jurisdiction up to \$500. They meet from four to twelve times a year. Circuit Court has unlimited jurisdiction both in civil and criminal, and holds from one to three terms a year in each county. Supreme Court with appellate jurisdiction only meets at Salem twice a year, and at Pendleton once a year.

Deeds executed in the State must have two witnesses and be signed and sealed by the grantors. A scroll by a pen is sufficient seal. Out of the State deeds may be executed according to the laws of the State, Territory or district where made. (See Acknowledgments.) Deeds are recorded in the office of the County Clerk of the county in which the land is situated. If not so recorded within five days, they are void against any subsequent purchaser in good faith, and for a valuable consideration whose conveyance is first recorded.

Depositions. In all affidavits and depositions the witness must be made to speak in the first person. Depositions shall be taken in the forms of questions and answers, unless the parties agree to a different mode. (Civil Code, 268.) Depositions of witnesses outside of the State may be taken upon a commission issued by the court or the clerk thereof, on the application of either party, upon five days' previous notice to the other. It shall be issued to a person agreed upon by the parties, or, if they do not agree, to a judge, justice of the peace, notary public, or clerk of a court selected by the officer issuing it. (Civil Code, 270.) Such interrogatories, direct and cross, as the respective parties may prepare, may be annexed to the commission, or, when the parties agree to that mode, the examination may be without written interrogatories. (Civil Code, 270.) Either party may take the deposition of a witness in this State, before any person authorized to administer oaths, upon giving the adverse party three days' previous notice, and one day's additional notice for every twenty-five miles the witness resides from the place of trial, of the time and place of examination, the name of the officer and of the witness. Either party may attend upon such examination and examine the witness upon oral interrogatories. The depositions shall be written by the officer taking the same, or by the witness, or by some disinterested person, in the presence and under the direction of such officer. When completed it shall be read to or by the witness and subscribed by him. (Code, Sec. 823.) The officer taking the deposition shall append thereto his certificate, under the seal of his office, if there be a seal, to the effect that the deposition was taken before him, at a place mentioned, between certain hours of a day or days mentioned, and reduced to writing by a person therein named; that before proceeding to the examination the witness was duly sworn to tell the truth, the whole truth, and nothing but the truth; that the deposition was read to or by the witness, and then by him subscribed. (Code, Sec. 825.) The deposition should then be securely sealed, and addressed to the court of the county issuing the commission. Upon the envelope should be indorsed the title of the case, and the words: "Deposition of ———".

Executions. The party in whose favor judgment is given may, at any time thereafter within ten years, have execution issued to enforce payment. After ten years the judgment is conclusively presumed to have been paid. Execution may issue against the person or judgment debtor, against his property, or for the delivery of real or personal property. The sale of property upon execution shall be made by auction. Property sold on execution, when subject to redemption, may be redeemed by the following persons: First—The judgment debtor or his successors in interest. Second—A creditor having a lien by judgment decree or mortgage on any portion of the property. A lien creditor may redeem within sixty days after confirmation of sale by the court. The judgment debtor may redeem within four months after confirmation.

Exemptions. Homestead exempted from judicial sale. Must be actual abode of, and owned by family, and not exceed 160 acres, or one block if in city, or \$1 500 in value. (Laws 1893, p. 93.) Personal property exempt includes books, pictures and musical instruments to the value of \$75; wearing apparel to the value of \$100, and if a householder, to the value of \$50 for each member of the family; tools, implements, apparatus, team, vehicle, harness or library when necessary in the occupation or profession of a judgment debtor, to the amount of \$400; if the judgment debtor be a householder, ten sheep with one year's fleece, two cows, five swine, household goods, furniture and utensils to the value of \$300; the seat or pew occupied by a householder or his family in a place of public worship; all property of the State in any county, incorporated city, town, or village therein, or of any other public or municipal corporation. No article of property is exempt from execution issued upon a judgment for the purchase price. The judgment debtor must select and reserve such property as he claims as exempt at the time of levy.

Insurance. The Secretary of State is Insurance Commissioner, and no company can do business without his license. Companies formed under the laws of the State must have at least five directors who are residents and property owners in the State and stockholders in the corporation, and a paid up, unimpaired, cash capital stock of \$100,000 invested in the State in U. S., State, city, county or school-district bonds, or notes secured by first mortgage on unincumbered real estate of double the value of the mortgage. They can not invest in mining stocks, nor make any loan to a stockholder, nor a stockholder be interested in any loan, pledge, security or property of the company, except to be a stockholder. Foreign

companies must deposit with the State Treasurer \$50,000 in money, or in interest bearing U. S., State, county, city or school-district bonds, the market value of which is at or above par, or bonds or notes secured by first mortgages upon unincumbered real estate within the State, of double the amount of the loan; or in lieu of such deposit, make an investment in real estate in the State of not less than \$65,000 to be approved by the Commissioner, the title to be vested in the State Treasurer as Trustee. The company receives the interest or income from the deposit or investment. No deposit can be withdrawn without six months publication of notice. Foreign corporations must also execute and record in each county where they have a resident agent, a power of attorney to some person, a resident and citizen of the State and United States, constituting him its attorney-in-fact upon whom service may be made, so as to give the courts jurisdiction of the company; and must show by the insurance reports or certificate of the Insurance Commissioner of some other State that they possess a paid up, unimpaired, cash capital of at least \$200,000. Companies not incorporated in the United States, except marine companies, must have deposited or invested for the benefit of policy holders within the United States, in at least one State, a sum equal to \$200,000 in excess of its liabilities in the United States. Orders, secret societies and benevolent and co-operative associations, such as Masons, Odd Fellows, Druids, Knights of Pythias, Ancient Order of United Workmen, Grangers, Firemen, etc. are not insurance companies under this act. Face of policy true value in case of total loss and the measure of damage except in case of fraud or where loss is caused by criminal act of the assured. Fire insurance companies must pay an annual license of \$50, and life and accident companies \$100. Insurance brokers a quarterly license of \$15.

Interest. Legal rate, eight per cent.; contracts may be made in writing for ten per cent. Usury works forfeiture of principal and interest, but judgment will be rendered against defendant for the principal of the debt to be paid into the Common School Fund of the county in which suit was commenced.

Judgments are a lien from the date of docketing on all defendant's real property within the county or counties where same is docketed, and on all which he may subsequently acquire during the life of the judgment. If ten years are allowed to elapse without issuance of execution on the judgment the lien ceases, and the judgment is conclusively presumed to have been paid.

Limitations of Suits. On contracts not under seal, express or implied, six years; on judgments or decrees of any court and sealed instruments, ten years; recovery real property, ten years. Revivor: Part payment or new promise in writing.

Married Women retain their real and personal estate owned by them at time of marriage or afterwards acquired, free from the debts and control of their husbands. A married woman may make contracts in her own name, buy goods, and give notes in settlement, and her real and personal property may be sold to satisfy the same. She may dispose of her real estate by will, subject to any rights which her husband may have as tenant by the curtesy. Wife may manage, sell, convey or devise by will to same extent and in same manner as her husband can. She is entitled to receive and hold the wages of her personal labor, and sue therefor in her own name, and she can prosecute and defend all actions for the preservation or protection of her property and rights as if unmarried. The expenses of the family and education of the children are chargeable upon the property of both husband and wife or either of them, and in relation thereto they may be sued jointly or separately. All laws imposing or recognizing civil disabilities upon the wife not imposed or recognized upon the husband (excepting the right to vote and hold office) have been repealed. The wife's dower and the husband's curtesy in real property are preserved.

Mortgages of real property are executed and recorded in the same manner as deeds, and foreclosed by suit in equity, but must be confined to property in one county only, except in cases of railroads whose mortgages or deeds of trust may embrace property in more than one county. Chattel mortgages, or copies thereof, must be immediately filed with the County Clerk, and cease to be valid as against creditors or purchasers after the expiration of one year, unless within thirty days next preceding the expiration of said year there is an affidavit made and filed therewith, that the debt which it secures is unpaid and the mortgage still in force. A chattel mortgage may be recorded, in which case the renewal affidavit is not necessary. A chattel mortgage, where the mortgagor is allowed to remain in possession and dispose of the property in the usual course of his business, is void as to purchasers and attaching creditors.

Notes and Bills of Exchange. All negotiable instruments are commercial paper. They are not required to be paid at any particular place unless a place of payment is specified in the instrument. Days of grace abolished. (Laws 1893, p. 104.) No person can be charged as an acceptor of a bill of exchange, unless the acceptance be in writing, signed by himself or his lawful agent. Indorsers, if properly charged by protest, are liable as long as the maker. Damages allowed on protested bills of exchange: domestic, five per cent.; foreign, ten per cent. Negotiable instruments falling due on a Sunday or a holiday become due on the next business day. Legal holidays are every Sunday, first day of January, twenty-second day of February, thirtieth day of May, first Monday in September, fourth day of July, twenty-fifth day of December, every day on which a general election is held, and every day appointed by the executive authority of the United States or this State as a day of fasting, thanksgiving or holiday. Where holiday falls on a Sunday the Monday following shall be observed as such holiday.

Suits. Practice is under a Code similar to that of New York, but the distinction between law and equity is retained. Suits and actions in the Circuit and County Courts are commenced by filing a verified complaint with the Clerk of the Court. Summons is served by personally delivering to the debtor or leaving at his residence, with a white person over fourteen years of age, a member of his family, a copy of the summons and a certified copy of the complaint, and if debtor does not appear or answer within ten days, if served in the county in which action is brought, or within twenty days, if served in any other county in the State, the creditor may take judgment. In case of non-resident debtors who have property in the State, of which the Court has acquired jurisdiction

by attachment or other lien, the Court may order service by publication of the summons, and a judgment obtained upon such service is valid to the extent of the attached property.

Taxes. Lands sold for taxes may be redeemed within one year, on payment of the purchase money and twenty per cent. thereon; within two years, thirty per cent.

Wills. Every person twenty-one years of age, of sound mind, may make a will of all his estate. Every person over eighteen years of age, of sound mind, may dispose of his goods and chattels. Every will shall be in writing, signed by the testator, or some other person under his direction, in his presence, and shall be attested by two or more competent witnesses subscribing their names to the will, in the presence of the testator. A will which fails to mention or provide for a living child is inoperative as to such child. A widow's dower can not be cut off by will. A legatee or devisee is not a competent witness to the execution of a will, unless he relinquishes all benefits thereunder.

PENNSYLVANIA.

BANKING LAW.

(Revised by JOHN W. RYON, Attorney at Law, Pottsville.)

Any person or association of persons, not less than five, may establish banks of discount, deposit, and circulation, with a capital of not less than \$50,000 nor more than \$1,000,000. Whenever a person or association desires to establish a bank, or increase the capital, a certificate to that effect must be made for at least six months in at least three newspapers, one published at the seat of government and the other two in the city or county where such a bank is located. If a paper is published in German in the county, notice must be given in that language. When a copy of this certificate containing the name, place of business, amount of capital stock, with the number of shares into which the same shall be divided, is certified by the Attorney General, it is recorded after the manner of deeds, and the Governor, upon a certified copy of such certificate being produced before him, causes letters patent to be issued.

Every person or corporation to whom letters patent may be granted, is authorized to carry on business for twenty years from the date of patent. The Auditor General is required to report annually to the legislature, within three days of the commencement of the session, a summary of the condition of every incorporated bank, with an abstract of the amount of banking capital returned by them. The capital stock of each bank is divided into shares of \$50 each. It is the duty of every cashier to publish in the newspapers a statement giving the amount of assets and liabilities, circulation, deposits, gold and silver, with all evidences of debt, with the personal and real property of the bank; and semi-annual reports are required. The Auditor General is to require quarterly statements from cashiers of the condition of banks, and one of the statements shall be made in November. Stockholders are individually liable for the notes issued by the bank. Under the general laws a savings bank can invest in any good bonds or securities; but nearly all savings banks have special charters, and the regulations as to investments in them differ. By an act passed by the legislature of 18-9, and not yet published, the organization of savings banks is facilitated, and their management carefully controlled.

COMMERCIAL LAW.

Acknowledgments of deeds of land in Pennsylvania taken elsewhere, may be made in the United States before any Mayor or Chief Magistrate, or Officer of any town or city where the deed is made, certified under the seal of such city or town, any Judge of any court of record, any Judge of a Federal Court, under the hand of the Judge and seal of the court, Commissioner for Pennsylvania, any officer in any State authorized by laws of said State to take acknowledgments, the authority to be proved by certificate of Clerk of any court of record, under seal of court, or Notary Public; if made out of United States, any Ambassador and all persons exercising public ministerial functions appointed by United States, or Notaries Public.

Assignments and Insolvency. A debtor may make a voluntary assignment in trust for the benefit of all creditors, which must be recorded in thirty days. The assignment does not relieve the debtor from the debt. The assignee must file his inventory and appraisement within thirty days and must file his accounts in the Court of Common Pleas, under whose direction he is, and thereupon the court appoints an auditor to distribute the fund, to whom all claims must be presented or they will not receive part of the estate. Imprisonment has been abolished in all civil actions founded on any contract, express or implied, except in proceedings as for contempt, to enforce remedies, actions for fines or penalties, or on promises to marry, on moneys collected by public officer, or of any misconduct or neglect in office or in any professional employment. The insolvent laws in cases where imprisonment is still permitted allow a person to be discharged from prison, but do not relieve him from the debt. All preference in deeds of assignment for creditors are void.

Attachment. Property of resident debtors may be attached, when debtor is about to remove his property out of the jurisdiction of the court in which the attachment is applied for, with intent to defraud his creditors; when he has property which he fraudulently conceals; when he has disposed of or is about to dispose of his property, with intent to defraud his creditors; when he has fraudulently contracted the debt or incurred the obligation for which the claim is made. In this attachment the creditor must make affidavit to prove the existence of a debt in excess of \$100, and one or more of the acts of fraud specified, and must give bond conditioned that, if he fails to prosecute his action with effect and

to recover a judgment against the debtor, he shall pay to the debtor all legal costs and damages which the debtor may sustain by reason of said attachment. Attachment can also be had to seize and hold property of non-resident, and will be dissolved on entering security. A defendant may be arrested after suit brought, upon proof that he is about to remove his property to defraud his creditors or has done so, or that he fraudulently conceals his property, or that he fraudulently contracted the debt; he may be committed unless he pays the debt, or gives security to do so within sixty days, or gives bonds to take the benefit of the insolvent law. Attachment of defendant's property in the nature of an execution may issue upon a judgment at any time after judgment.

Bills of Lading. A bill of lading has been defined by judicial authority to be a written acknowledgment signed by the Master that he has received the goods therein described from the shipper to be transported on the terms therein expressed to the described place of destination, and there to be delivered to the consignee, or parties therein designated. Again, it has been defined to be a formal acknowledgment of the receipt of goods, and an engagement to deliver them to the consignee or his assigns.

Collaterals. A pledge or pawn is a bailment of goods, choses in action, or stocks by one person to another to secure the performance of some legal obligation. Delivery is essential to the creation of the pledge. Where the thing pledged as collateral security is given up to the pledger the pledge is defeated. A pledgee has an implied power to sell the thing pledged after default by the pledger. The pledgee may sell after the debt becomes due without judicial process, but must first demand payment of the debt, and give notice of the time and place of sale.

Corporations. Many corporations in this State were created by special acts of Assembly. Before the adoption of the new constitution of 1874, the general practice was to get an act of the Legislature conferring corporate rights. The act of April 29, 1874, passed to carry out the provisions of the new constitution, provides for the incorporation of companies for a great variety of purposes. Such corporations are divided into two general classes—the first class, corporations not for profit; the second class, corporations for profit.

The charter of an intended corporation must be subscribed by five or more persons, three of whom at least must be citizens of this Commonwealth, and shall set forth: (1) The name of the corporation; (2) the purpose for which it is formed; (3) the place or places where its business is to be transacted; (4) the term for which it is to exist; (5) the names and residence of the subscribers and the number of shares subscribed by each; (6) the number of its directors and the names and residence of those who are chosen directors for the first year; (7) the amount of its capital stock, if any, and the number and par value of shares into which it is divided. Notice of the intention to apply for any such charter shall be inserted in two newspapers of general circulation, printed in the proper county, for three weeks, setting forth briefly the character and object of the corporation to be formed, and the intention to make application therefor. The certificates of incorporation of the first class shall be acknowledged by at least three of those who subscribe to them before the Recorder of Deeds of the county in which the business of the corporation is to be transacted, to be their act and deed, and the same, being duly certified under the hand and official seal of the said Recorder of Deeds, shall be presented to a law judge of the said county, accompanied by proof of the publication of the notice of such application, who is hereby required to peruse and examine said instrument, and if the same shall be found to be in the proper form, and within the purposes named in the first class, and shall appear lawful and not injurious to the community, he shall indorse thereon these facts, and shall order and decree thereon that the charter is approved, and that upon the recording of the said charter and order the subscribers thereto and their associates shall be a corporation for the purposes therein stated, which charter shall be recorded in the office for the recording of deeds in said county. The certificate for a corporation of the second class shall set forth, as is required by those of the first class, and except building and loan associations shall also state that 10 per centum of the capital stock has been paid in cash to the treasurer of the intended corporation, and the name and residence of such treasurer. Said certificate shall be acknowledged by at least three of the subscribers thereto before the Recorder of Deeds of the county in which the chief operations are to be carried on, or in which the principal office is situated, and they shall also make and subscribe an oath or affirmation before him, to be indorsed on the said certificate, that the statements contained therein are true.

The said certificate, accompanied with proof of publication of notice, as provided in corporations of the first class, shall then be produced to the Governor of this Commonwealth, who shall examine the same, and if found in proper form and within the provision of corporations of the second class he shall approve thereof and indorse his approval thereon, and direct letters patent to issue in the usual form, incorporating the subscribers and their associates and successors into a body politic and corporate, in deed and in law, by the name chosen.

The certificate shall be recorded in the office of the Secretary of the Commonwealth, in a book to be by him kept for that purpose, and he shall forthwith furnish to the Auditor General an abstract therefrom, showing the name, location, amount of capital stock, and name and address of the treasurer of such corporation. The said original certificate, with all of its indorsements, shall then be recorded in the office for the recording of deeds, in and for the county where the chief operations are to be carried on, and from thenceforth the subscribers thereto and their associates and successors shall be a corporation, for the purposes and upon the terms named in said charter.

Courts. Terms and Jurisdiction. Courts of Common Pleas in the several counties have original jurisdiction in all sums over \$100. Orphans' Courts have full probate powers and entire control of decedents' estates. Justice's jurisdiction, \$300. In Philadelphia there are Magistrates supplying the place of Justices of the Peace, but having civil jurisdiction only to the amount of \$100.

Depositions. In the courts of common pleas a rule to take the depositions of witnesses to be read in evidence is of course and may be entered by either party, stipulating at least five days' notice to the adverse party, his agent, or attorney of the time and

place of taking the same when the depositions are to be taken within the county, and ten days when the depositions are to be taken beyond the county limits and within the State. The notice must contain the name of the magistrate before whom such depositions will be taken, or that they will be taken before some one competent to administer oaths and affirmations in Pennsylvania at some specified place and between certain hours of a day named. Either party may, if not wishing to attend, transmit interrogatories to the magistrate or person authorized to take the depositions, who shall put the same and reduce the answers to writing, and return the same with the depositions. Rules to take the depositions of ancient, infirm, sick, and away-going witnesses to be read in evidence may be entered in the case and upon the allocatur of a judge, which will be granted upon sufficient cause shown by affidavit stipulating such reasonable notice to the adverse party or attorney as the exigencies of the case may require. If the witnesses whose depositions have been taken reside within the State and within forty miles of the place of trial, the depositions can not be read unless the party offering them shall satisfy the court that the attendance of the witnesses can not be procured. A rule for a commission to any other State or Territory of the United States, or to any other foreign state, is of course, and may be entered by either party in the office of the prothonotary, but the interrogatories of the applicant must be filed in the prothonotary's office at the time, and written notice of the rule and of the names of the commissioners, or their office titles, together with a copy of the interrogatories, must be served on the adverse party, his agent, or attorney at least ten days before the commission can issue, in order that the adverse party may file cross interrogatories and nominate an additional commissioner or commissioners if he deems it necessary. To entitle depositions to be read they must be certified, sealed, and returned to the court from which they issued within twenty days after the execution of the same.

Executions may be issued as soon as judgment is obtained, or at any time within five years. The writ of execution is made returnable to the first Monday of the following term; but it is the duty of the Sheriff to make his levy at once, and he may proceed to sell personal property upon six days' notice, and distribute the proceeds. Stay of execution upon suits in Court can be taken, by giving security, or under claim of freehold, on all sums of \$200 and under, six months; between \$200 and \$500, nine months; over \$500, twelve months. In suits before Justices of the Peace on sums between \$5.33 and \$20, three months; between \$20 and \$60, six months; and over \$60, twelve months. The stay is computed from the first day of the term to which the action was commenced.

Exemptions. No homestead law. Real or personal property to the value of \$300, in addition to wearing apparel, Bibles, and school-books, and a sewing machine, are exempt, but the privilege is personal only and can be waived at any time.

Interest. The legal rate is six per cent.; usurious interest can not be collected, and if paid may be recovered back, provided suit is brought therefor within six months after final payment of the debt. Most of the savings banks are by special statute authorized to loan money at higher rates of interest, but by act of 1878 all banking companies are prohibited from taking more than six per cent. Commission merchants and agents may contract with parties outside the State for seven per cent. It is not usury for a borrower to contract to pay the taxes upon the money lent, nor to pay a reasonable attorney's fee in case suit is brought for its collection. Interest is due upon every debt from the time it becomes due and payable. The rate is the same on all debts, whether secured by judgment or not.

Judgments bind all the interest of defendant in real estate within the county where the judgment was entered, and under the Act of March 23, 1877, a verdict of a jury for a specific sum (unless a new trial is granted) is also a lien on real estate. Lien exists for five years, and may be continued by revival of the judgment. Justice's judgments become liens by filing transcripts in the Court of Common Pleas.

Limitations of Suits. Contracts, notes, and instruments not under seal, trespass, detinue, replevin, six years; action for trespass, to person, two years; for slander, one year; judgments, mortgages and sealed instruments will be presumed to be paid after twenty years, but this presumption may be rebutted. Revivor: Acknowledgment, coupled with promise to pay; promise may be implied, if acknowledgment is plain, express, and nothing to negative such implication.

Married Women. By the Act of June 3, 1887, it is enacted, etc., That hereafter marriage shall not be held to impose any disability on, or incapacity in, a married woman, as to the acquisition, ownership, possession, control, use, or disposition of property of any kind in any trade or business in which she may engage, or for necessities, and for the use, enjoyment, and improvement of her separate estate, real and personal, or her right and power to make contracts of any kind, and to give obligations, binding herself therefor; but every married woman shall have the same right to acquire, hold, possess, improve, control, use, or dispose of her property, real and personal, in possession or expectancy, in the same manner as if she were a *femme sole*, without the intervention of any trustee, and with all the rights and liabilities incident thereto, except as herein provided, as if she were not married, and property of every kind owned, acquired, or earned by a woman, before or during her marriage, shall belong to her and not to her husband or his creditors: Provided, however, That a married woman shall have no power to mortgage or convey her real estate, unless her husband join in such mortgage or conveyance.

The married woman's Property Act of June 3, 1887, extended the rights of married women far beyond any previous act. The language of this act is very broad, and was carefully considered in the *Real Estate Company v. Roop*, 132 Pa., 496, where it was held that it unfettered a woman to a limited extent only, and did not clothe her with a general power to contract as a *femme sole*. It was there said, in the opinion of the court: "Viewed in this light, it unfetters a married woman... for three purposes, viz.: (a) Where she engages in trade or business; (b) in the management of her separate estate; and (c) for necessities. For any of these purposes she may bind herself and her estate or business by her contracts, and I have no doubt may lawfully confess a judgment. In emancipating married women to this large extent, from the rule of the common law, and clothing them with the power to contract for many purposes,

their responsibilities are necessarily enlarged, and the old rule, which ignored their existence as a distinct entity from their husbands, must necessarily be modified to the extent of their changed relations. A married woman may now engage in business and enter into contracts in regard to it, or the management of her separate estate as fully as a *femme sole*. This extension of her power necessarily involves the right to sue, and the liability to be sued; and when she may be sued she may confess judgment. In other words, as to every contract which she is authorized to make, her rights and responsibilities are those of a *femme sole*; Provided, however, That nothing in this act shall enable a married woman to become accommodation endorser, guarantor, or surety for another."

Mortgages are executed and acknowledged same as deeds, and lien inheres from time of recording except where given for purchase money, when the mortgage is a lien from its date, if recorded within sixty days. Chattel mortgages may be given on mining property, lumber, petroleum, iron, and other articles specified; must be for not less than \$500, and must be filed of record. The lien thus created continues one year, and must be revived within thirty days of the expiration of that period, or it becomes void.

Notes and Bills of Exchange. The Act of March 30, 1875, allows days of grace on all bills of exchange, drafts, promissory notes, and other negotiable instruments, excepting sight bills and drafts, and checks on banks or bankers, whether payable on presentation or upon some day or time subsequent to the date of issue. Notes, etc., falling due on a holiday are due the secular day preceding. Holidays are January 1, February 22, July 4, December 25, Good Friday, Decoration Day (May 30), and any day appointed by Governor or President of the United States as a day of fasting, thanksgiving or general cessation of business.

Suits may be commenced at any time. All writs of summons are returnable on certain days set by rule of court (and which are in most counties monthly) and in default of an appearance and affidavit of defense judgment may be entered against defendant generally in ten or fifteen days after service. A summons from a Justice of the Peace is returnable on a day named therein, which must not be less than five nor more than eight days after the date of the writ, and must be served on the debtor at least four days before the date fixed for the hearing of the case.

Taxes. Improved lands may be sold for taxes two years delinquent, and "Unseated" lands may be sold for taxes delinquent one year, and are redeemable within two years by payment of taxes and costs and twenty-five per cent. thereon.

Wills. Every person of sound mind (married women excepted) may dispose by will of his or her real estate, whether such estate be held in fee simple or for the life or lives of any other person or persons, and whether in severalty, joint tenancy, or common, and of his or her personal estate. Any married woman may dispose by her last will and testament of her separate property, real, personal, or mixed, whether the same accrue to her before or during coverture. *Provided*, That the said last will and testament be executed in the presence of two or more witnesses, neither of whom shall be her husband; and *provided also*, That no will shall be effectual unless the testator were, at the time of making the same, of the age of twenty-one years or upward, at which age the testator may dispose of real as well as personal or mixed property, if in other respects competent to make a will. Every will shall be in writing, and unless the person making the same shall be prevented by the extremity of his last sickness shall be signed by him at the end thereof, or by some person in his presence and by his express direction; and in all cases shall be proved by the oaths, or affirmations of two or more competent witnesses, otherwise such will shall be of no effect. *Provided*, That personal estate may be bequeathed by a nuncupative will, under the following restrictions: (1) Such will shall in all cases be made during the last sickness of the testator, and in the house of his habitation or dwelling, or where he has resided for the space of ten days or more next before the making of such will, except where such person shall be surprised by sickness, being from his own house, and shall die before returning thereto; (2) Where the sum or value bequeathed shall exceed the sum of \$100, it shall be proved that the testator, at the time of pronouncing the bequest, did bid the persons present, or some one of them, to bear witness that such was his will, or to that effect; and in all cases the foregoing requisites shall be proved by two or more witnesses, who were present at the time of making of such will. *Provided*, That notwithstanding this act, any mariner being at sea, or any soldier being in actual military service, may dispose of his movables, wages, and personal estate as he might have done before the making of this act. All devises of real estate shall pass the whole of the estate of the testator in the premises devised, although there be no words of inheritance or of perpetuity, unless it appear by a devise over, or by words of limitation, or otherwise in the will, that the testator intended to devise a less estate. The real estate acquired by a testator after making his will shall pass by a general devise, unless a contrary intention be manifest on the face of the will. A devise or bequest by a husband to his wife of any portion of his estate or property shall be deemed and taken to be in lieu and bar of her dower in the estate of such testator, in like manner as if it were so expressed in the will, unless such testator shall in his will declare otherwise. *Provided*, That nothing herein contained shall deprive the widow of her choice, either of dower or of the estate or property so devised or bequeathed.

RHODE ISLAND.

BANKING LAW.

(Revised by WM. G. RICH, Attorney at Law, Woonsocket.)

There are nine of these institutions, all chartered before National banks were created by Congress, total capital, \$1,766,685; bills in circulation, \$3,138. Banks, like all business corporations, are, under the constitution of Rhode Island, chartered by special act presented to one legislature, and, after public notice, granted

by a succeeding legislature. In most charters now in force is a provision making stockholders liable for all debts of the bank. The legislature, or the Governor, when the legislature is not in session, may at any time appoint a special commission to examine one or more banks; and if three or more officers, stockholders or creditors of any bank, make a written complaint, the Governor shall appoint such a commission. Banks are not required to make public statements of their condition, but must report to the State Auditor on a day between November 15 and December 15 in each year, the day to be subsequently designated by him. These reports are quite full, covering substantially what is reported by National banks. An abstract of all the reports is published by the State Auditor as soon as may be. There are no restrictions to the class of bonds Savings banks may invest in. See Chap. 153, Sec. 50, Public Statutes of R. I.

COMMERCIAL LAW.

Acknowledgments. (See Deeds.)

Actions and Suits. All actions and suits at law and in equity relating to realty must be brought in the county where the land lies; all other actions and suits, where plaintiff or defendant resides, or where defendant may be found. (See Title Courts.)

Assignments and Insolvency. There is no general insolvent law. Assignments for equal benefit of all creditors are allowed; all preferences are void. Any resident debtor whose property, real or personal, is attached may dissolve the attachment by a general assignment for the equal benefit of his creditors. One or more creditors, representing, collectively, one-fifth in amount of all claims against any debtor, may, within sixty days of any attachment of his property, or any transfer by him of property in the way of preference, secure the setting aside of such assignment and transfer and the appointment of a Receiver to convert the debtor's property and assets into money, and distribute equally among all creditors. Such proceedings do not entitle the debtor to a discharge, which is only obtained by actual release from each creditor.

Attachment. Attachment process may be issued from the Common Pleas division of the Supreme Court, or any District Court, whenever the plaintiff in the action to be commenced by such writ, his agent or attorney, shall make affidavit that the plaintiff has a just claim against the defendant, which is due, upon which the plaintiff expects to recover in such action a sum sufficient to give jurisdiction to the court in which such writ is returnable. Personal property of the debtor (unless secured by bill of exchange or negotiable promissory note), in the hands of any person, partnership, or corporation, is subject to garnishment.

Corporations. No corporation to carry on the business of insurance or banking, no bank, savings bank, trust company, or corporation trading in bonds, notes, or other evidences of indebtedness, shall be created except on petition to the General Assembly. All kinds of corporations may be created by the General Assembly under special charter, but corporations for business purposes, except those kinds above enumerated, may be created by means of articles of association setting forth: (1) The agreement of any three or more corporators to constitute a corporation; (2) Name by which it shall be known; (3) The purpose for which constituted; (4) Place or places of its location; (5) If it have a capital stock, the amount, whether common or preferred, and how much of each, number of shares each person is to take, and par value of shares. Same articles to be signed by all the corporators, stating residence of each, and same shall be acknowledged as deeds of real estate are required to be acknowledged, and then shall be filed in the office of the Secretary of State. The Secretary of State issues a certificate under the seal of the State which shall be conclusive evidence of the existence of such corporation. (See Pub. Laws, Chap. 1200.)

All manufacturing and some other business corporations are subject to certain provisions of the statutes, among the most important of which is the liability of its members jointly and severally ("limited to the shares of such members in such corporations paid up to the par value thereof") for all the debts and contracts of the corporation until the whole amount of the capital stock shall have been paid in and a certificate thereof, signed and sworn to by the resident, treasurer, and clerk, and by a majority of the directors, shall have been recorded in the office of the town clerk of the town in which the manufactory of the corporation is established. After the making and recording of such certificate the stockholders shall also be under the same liability, and also "in addition an amount up to, but not exceeding, the par value of their said shares," unless a certificate, signed by a majority of the directors, truly stating the amount of the capital stock actually paid in, the value, as last assessed for a town tax, of the corporation's real estate, the value of its personal assets, and the amount of its debts and liabilities on the 31st day of December of the year last preceding, shall be recorded annually in such town clerk's office on or before the 15th day of February. But if this annual certificate be not so made and filed by a majority of the directors or other officers of such company, any stockholder may exempt himself from liability for its debts in consequence of such neglect by filing in such town clerk's office, on or before the 25th day of the same February, a true return, under oath, of the situation of the corporation in the same matters, as nearly as he can ascertain them, or by filing in the said office a statement under oath, that a majority of the directors or other officers of such company have been requested by him to make the return required, and that they have refused or neglected so to do, and that the stockholder is not able to make the required return; such statement so made by a stockholder and filed as aforesaid shall be published in some daily newspaper published in Providence, and if said corporation is located without Providence County, in a newspaper in the county where the corporation is located. If any of the officers neglect or refuse to make and record the first return of the capital paid in, within ten days after it is paid in, they shall be jointly and severally liable for all debts contracted after said ten days and until the certificate is recorded. (Pub. Statutes, Chap. 155; see also Chap. 152, Constitution R. I., Art. IV, Par. 17; and Pub. Laws R. I., Chapters 1038 and 1089.)

Courts. Terms and Jurisdiction. The Supreme Court has full equity powers. The Judiciary Act taking effect as law August 22, A. D. 1893, provides for an Appellate Division of the Supreme Court and also for a Common Pleas division thereof. Sessions of Appellate Division are held yearly and every year as follows, viz.: In Providence County, four sessions; in Newport and Washington Counties, two sessions each. The Common Pleas division in Providence County holds one continuous session, commencing on the third Monday in September and ending on the third Monday in the following July; and in each of the other counties it holds four sessions yearly and every year. The Appellate division has exclusive jurisdiction of all suits and proceedings in equity, to issue all prerogative and all extraordinary writs and processes, and of petitions for divorce and alimony and petitions for a new trial in any case. Common Pleas division has original jurisdiction where the claim or demand exceeds three hundred dollars. The State is divided into twelve districts, in each of which is a District Court, having jurisdiction in civil causes when the sum sued for does not exceed \$300. The Town Councils are Courts of Probate within their respective towns, and the Municipal Court of Providence is the Court of Probate of that city. Any town may, however, elect a Probate Judge at its annual election.

Days of Grace. (See *Notes and Bills of Exchange.*)

Deeds. No estate of inheritance or freehold can be conveyed by deed unless the same be signed, sealed, and delivered by the grantor, and acknowledged before a senator, judge, justice of the peace, notary public, mayor or town clerk, and recorded in the office of the town clerk where the land lies. Instruments relating to lands within this State, executed elsewhere in the United States, may be acknowledged before a judge, justice of the peace, notary public, mayor, or before any commissioner appointed by the Governor, and duly qualified thereunto. In foreign countries before a minister, consul, vice-consul, or commercial agent of the United States, or any properly qualified commissioner within such country. No acknowledgment required by husband conveying his interest as tenant by the curtesy, nor by wife conveying dower interest.

Depositions. Except in equity cases, any justice of the Supreme Court, justice of the peace, or notary public, may take the depositions of any witness, to be used in the trial of any civil suit, action, petition or proceeding, in which he is not interested, nor counsel, nor the attorney of either party, and which shall then be commenced or pending in this State, or in any other State, or in the District of Columbia, or in any Territory, government or country.

Previous to the taking of any deposition as aforesaid within this State, the official authorized to take the same shall, in all cases, cause the adverse party, or his attorney of record, to be notified of the time and place appointed for taking such deposition, so that he may attend and put interrogatories to the deponent if he think fit.

Depositions taken without this State to be used in the tribunals thereof, may be taken by such person and in the manner and with the formalities required by the law of the State, District of Columbia, Territory or country in which the same shall be taken.

Every person, before deposing, shall be sworn to testify the truth, the whole truth and nothing but the truth, and shall subscribe his name to such deposition in the presence of the official before whom the same was taken.

The deposition, so taken, shall be retained by such magistrate, officer, or commissioner, until he deliver the same with his own hand to the court for which it is taken, or shall, together with a certificate of its having been duly taken, be, by said magistrate, officer, or commissioner, sealed up and directed to such court, and remain so sealed until opened by order of the court, or of some justice thereof, or by the clerk by the consent of the parties; and any person may be compelled to appear and depose as aforesaid within this State, in the same manner as to appear and testify in court.

Instructions for Taking Depositions. The magistrate, officer, or commissioner authorized to take depositions, in his notification to the adverse party, should state the time and place appointed, and the names of witnesses to be examined, which must be served by a proper officer, or by any impartial or disinterested person, who must make oath to his return. The depositions when taken, will be returned under seal to the court in which the suit is pending, with a certificate indorsed by the magistrate, of the contents and name of the case. The following is a form of caption which may be appended to each deposition, or to the whole when more than one is taken.

Executions. Execution issues after twenty-four hours immediately following the entry of judgment; returnable three months after date thereof in District Court, and in six months in other courts; can only be stayed by order of the court. There is no redemption of property sold under execution. In default of goods and chattels or real estate on which to levy, execution may issue against the body of the debtor in cases where fraud is alleged, and for recovery of costs in actions of trespass and ejectment.

Exemptions. No homestead law. Necessary wearing apparel of debtor and his family; working tools of a debtor, not exceeding \$200, including the professional library of any professional man in actual practice, and household furniture and family stores \$300, are exempt from attachment and execution, where the debtor is a householder.

Interest. The legal rate of interest is six per cent., but any rate of interest agreed upon between the parties may be taken. Rates on judgments, notes, or open accounts, etc., is six per cent., unless a different rate be stipulated by the parties. Interest begins to run on accounts from the expiration of stipulated term of credit, or at a time fixed by usage of trade.

Judgments are not a lien on real estate. Foreign judgments are proved in accordance with Act of Congress. There is no statute or rule of court on the subject.

Limitations of Suits. Accounts, six years; simple promissory notes, six years; sealed instruments and judgments, twenty years. An oral promise and partial payment revive the debt.

Married Women. The property of a married woman is secured to her separate use, and is not liable for debts of her husband. She can transact business as a trade as through single and unmarried. The rights of dower and curtesy are fully preserved. Bond executed

by her is legal and binding. She may make any contract whatsoever, the same as if she were single and unmarried, and with the same rights and liabilities. Property secured to her shall be liable to attachment and levy for her debts and liabilities under the same circumstances and with the same effect as if she had continued sole and unmarried. (See Deeds.)

Mortgages must be executed in the same manner as deeds, and recorded [see *ante*]. No chattel mortgage is good against purchaser or attaching creditor unless recorded, or the mortgagee has possession, or can prove actual notice. Foreclosure is usually enforced by sale under power in the mortgage, which in most cases enables the mortgagee to sell after ten or twenty days' notice thereof published in newspaper, after default. Mortgages may be discharged by release on the face of the record, or upon original mortgage deed, or by separate deed of discharge and release. (Pub. Statutes, Chap. 176.)

Notes and Bills of Exchange. No statutory laws as to what constitutes commercial paper. All bills of exchange drawn at sight, due and payable within this State, and in which there is not a provision to the contrary, shall be allowed three days' grace. Any person upon whom a bill of exchange or draft is drawn which requires acceptance, shall have until two o'clock in the afternoon of the business day next succeeding the first presentation thereof in which to decide whether or not he will accept the same; provided, however, that all bills of exchange or drafts which may be for cause held over one day, shall, when accepted, date from day of presentation. Legal holidays are July 4, Christmas, February 22, May 30 (if coming on Sunday, the day following), and any day of Fast, Thanksgiving, or Arbor day appointed by authority. Indorsements of commercial paper are held on notice from notary public, in accordance with the usages of merchants, our statutes in no way regulating it.

Taxes are a lien on real estate, and lands may be sold for taxes delinquent after due notice given. Owner, or his heirs or assigns, may redeem within one year by paying purchase money with twenty per cent. in addition.

Wills. All wills of lands, tenements, and hereditaments, and bequests of personal estate, shall be in writing and signed by the party devising and bequeathing the same, or by some person in his presence and by his express direction; and shall be attested and subscribed in his presence by at least two witnesses, or else shall be void and of no effect. No form of proof is required, but the subscribing witnesses should appear at probate of the will, if living in the State. Non-residents may be executors of wills. Every person being upwards of eighteen years of age may dispose of personal estate and every person of twenty-one years or above may dispose of real estate by last will and testament. The will of a married woman shall not impair the rights of her husband upon her death, as tenant by the curtesy. Wills are recorded in the Town Clerk's office of the town where the testator lived. (Pub. Statutes, Chap. 182.)

SOUTH CAROLINA.

BANKING LAW.

(Revised by J. N. NATHANS, Attorney at Law, Charleston.)

The 6th Section of Article 12 of the constitution provides as follows: The General Assembly shall grant no charter for banking purposes, nor renew any banking corporations now in existence, except upon the condition that the stockholders shall be liable to the amount of their respective share or shares of stock in any such banking institution, for all its debts and liabilities, upon note, bill, or otherwise; and upon the further condition that no director or other officer of said corporation shall borrow any money from said corporation; and, if any director or other officer shall be convicted upon indictment of directly or indirectly violating this section, he shall be punished by fine or imprisonment, at the discretion of the Court. The books, papers and accounts of all banks shall be opened to inspection, under such regulations as may be prescribed by law.

General Statutes, Part 1, Section 547, says: "The Comptroller General shall collate the various statements in the monthly returns made to him by the banks, so as to present a comparative view of all the items thereof, and shall publish the same in some public newspaper, for general information. Every bank failing to make such returns shall forfeit to the use of the State, to be recovered by the Comptroller by action, \$25 for each and every day's neglect." Section 548 provides: "The Comptroller General shall, at least once in every month, collect the accounts of the weekly state of their circulation and specie, rendered by the several banks of issue, in conformity with law, and publish the same, so collected, in some newspaper.

And any bank, the officers whereof shall neglect to transmit to the Comptroller General any such account aforesaid, shall forfeit \$100 for each and every day during which the same shall be neglected, to be recovered by action at the suit of the State." Section 549: "It shall be the duty of the Comptroller General, whenever it appears that any bank, or any officer of a bank, has incurred any forfeiture for any official misconduct, to cause suit to be brought against such bank or officer, by the Attorney General or the solicitor of the circuit in which such bank is situated, for the recovery of the same. And in case he shall, at any time, have cause to suspect that a false or incorrect account has been rendered to him by any bank he shall have authority, and it shall be his duty, to make a personal examination of the books of such bank, in order to ascertain the truth; and any officer of a bank who shall refuse to submit the books of said bank to the Comptroller General for such examination shall be deemed guilty of a misdemeanor, and be subject to fine and imprisonment, at the discretion of the Court." There are no laws restricting Savings banks incorporated by the State as to the class of bonds or securities in which they may make investments.

No irregularity in complying with the provisions of the General Incorporating Act shall be held to vitiate any charter until proceedings to set aside and annul the charter shall be instituted by the State, and all acts done and contracts entered into shall have the same force and effect as if said irregularity had not existed.

COMMERCIAL LAW.

Acknowledgments. All deeds for the conveyance of real estate must be signed and sealed by the grantor in the presence of two witnesses, and recorded within the county in which the land lies, within forty days from the time of delivery or execution. Before any deed or other instrument in writing can be recorded in the proper office within the State, the execution thereof shall first be proved by the affidavit, in writing, of a subscribing witness to such instrument, taken before some officer within the State competent to administer an oath, or before a Commissioner or Commissioners appointed by dedimus, issued from the Court of Common Pleas of the county in which the instrument is to be recorded; or, if taken without the limits of the State, and within the United States, before a Commissioner of Deeds of the State, or before a Clerk of a court of record, who shall certify the same under his official seal, or before a Notary Public, who shall affix thereto his official seal, and accompany the same with a certificate as to his official character from a Clerk of a court of record of the county in which the affidavit is taken; or, if taken without the United States, before a Consul or Vice-Consul of the United States of America. All verifications of pleadings, affidavits, and proofs of claims made before Notaries Public in other States have the same force and effect as if sworn to before a Commissioner of Deeds, provided the Notary shall use his official seal.

Assignments and Insolvency. An embarrassed debtor may assign his property for the benefit of creditors, who have the right to appoint an agent or agents equal to the number of assignees. Where none are appointed, assignee can act alone and must report to creditors every three months. The compensation of assignee and agent is five per cent. for receiving, and two and a half per cent. for paying out money. The assignment of all his property by a debtor under arrest effects his discharge from such arrest. Only the claims of creditors participating in dividends are affected by these assignments, and then only as to creditors who by the terms of deed are required to release. The debtor, however, can make no preferences or priorities other than as to debts due the public and to such creditors as shall release under the assignment, and all transactions within ninety days before assignment, with a view to give fraudulent preference to any creditor or creditors are null and void.

Attachments will issue in an action arising on contract for the recovery of money, or in an action for the wrongful conversion of personal property, or for the recovery of property, whether real or personal, and damages for the wrongful conversion and detention of personal property or in an action for injury done to either person or property, or against a corporation created by or under the laws of any other State, government or country, or against a debtor who has absconded or concealed himself, or whenever any person or corporation is about to remove any of his or its property from the State, or has assigned, disposed of, or secreted, or is about to assign, dispose of, or secrete any of his or its property, with intent to defraud creditors; the creditor, at the time of issuing the summons, or at any time thereafter, may have the property of such debtor or corporation attached as a security for the satisfaction of such judgment as the creditor may recover. Proceedings in case of attachment are prescribed by the Code. Garnishee process can be had in aid of attachment.

Corporations. All foreign corporations must pay a license fee of \$100 to the Comptroller General before they can transact business in the State, and must have some duly appointed agent resident in the State upon whom legal process may be served.

Courts. Terms and Jurisdiction. Courts of Common Pleas are held three times a year in each county, and have jurisdiction in all civil cases not cognizable by the Trial Justices. There is a Probate Court in each county, holding monthly sessions and possessing the usual powers. Justice's jurisdiction, \$100. Actions to be tried in the county where land lies, or in which the defendant resides.

Executions may issue five days after the adjournment of each Court, and are returnable within sixty days. Stay is only granted on appeal given. Executions may issue at any time within three years from date of judgment. The Clerk shall not, without special leave of the court, enter any judgment until the expiration of five days after the court has adjourned for the term.

Exemptions. Homestead, \$1,000. The homestead right can not be waived or alienated. Personal property exempt includes household furniture, carts, wagons, farming implements, and domestic animals up to \$500, and in addition thereto all necessary wearing apparel. But no right of homestead shall exist or be allowed in any property, real or personal, aliened or mortgaged, by any person or persons whomsoever, as against the title or claim of the alienee or mortgagee, or his, her or their heirs or assigns.

Interest. No greater rate of interest than seven per cent. per annum can be charged upon any contract arising in the State, except upon written contracts, wherein, by express agreement, a rate of interest not exceeding eight (8) per cent. may be charged. Any person or corporation receiving a greater rate of interest than ten per cent. shall not only forfeit the interest, but also double the sum received, to be collected by a separate action or allowed as a counter-claim to any action brought to recover the principal.

Judgments are a lien on lands within the county for ten years from the time of entry, which lien may be extended to other counties by filing transcript, and may be renewed within three years so as to extend lien for ten years more.

Limitations of Suits. Upon contracts not under seal, sealed notes or personal bonds, six years; judgments or decrees of any court, and upon sealed instruments (except as above), twenty years; to recover real property, ten years; actions for libel, slan-

der, assault, battery, or false imprisonment, and actions upon a statute for a forfeiture or penalty to the State, two years; actions on policies of insurance may be brought within six years, anything in the policy to the contrary notwithstanding.

Married Women. The real and personal property of a married woman, whether held by her at the time of her marriage or acquired thereafter, either by gift, grant, inheritance, devise, purchase or otherwise, is not subject to levy and sale for her husband's debts; and a married woman can bequeath, devise or convey her separate property in the same manner and to the same extent as if she were unmarried, except that she cannot become an accommodation endorser, guarantor, or surety, nor liable in any way to answer for the debt or default of another.

Mortgages. All mortgages, whether of real estate or chattels, must be recorded within forty days. Mortgages of realty are foreclosed by ordinary suit of complaint and summons, and chattel mortgages are enforced by mortgagee taking possession of the goods and selling them. Different books must be provided by Clerks and Registers of Mesne Conveyances of the several counties, for the recording of chattel mortgages and mortgages on real estate. Renunciation of dower by a married minor valid. Chattel mortgages after breach of condition and before sale may be discharged by payment or tender of payment.

Notes and Bills of Exchange. Bills of exchange and promissory notes, drawn in the usual form, are recognized as commercial paper. There is no law requiring the payment of commercial paper at a bank or other fixed place in the State. If drawn payable at sight are entitled to days of grace. No protest is needed on an inland bill for less than \$100. On all bills of exchange drawn on persons resident within the United States, and without this State, and returned protested, the damages on such protested bill shall be ten per cent. on the sum drawn for. On all bills drawn on persons resident in any other part of North America or in the West India Islands, and protested, the damages shall be twelve and one-half per cent. On all bills drawn on persons in any other part of the world, and protested, the damages shall be fifteen per cent. Paper falling due on Sunday or legal holiday to be paid the next day thereafter. Legal holidays are 1st of January, 22d of February, 4th of July, Christmas Day, Thanksgiving Day, and all general election days.

Suits. All distinctions between actions at law and suits in equity have been abolished, and the Code of Procedure is almost identical with that of New York. Actions relating to real property or for the recovery of specific personal property are brought within the county where the land or property is situated. In all other cases in the county of the defendant's residence; and, if he resides out of the State, then in any county.

Taxes for State purposes are a lien from November 1 of each year, and payable by 15th December of the following year. Immediately upon the expiration of the time allowed by law for the payment of taxes in any year, the County Treasurer of each county shall issue in the name of the State an execution against each defaulting taxpayer in his county, under which sufficient personal or real property shall be sold to pay said taxes, the sheriff's deed under such sale shall be *prima facie* evidence of good title in the purchaser. No action for the recovery of land so sold shall be maintained unless brought within two years from date of said sale. All lands not sold are forfeited to the State. The tax is in all cases a first lien as against the estates of all deceased persons; of bankrupts and insolvents; of all persons making assignments for the benefit of creditors; as against all trust estates; as against all personalty had on chattel mortgage or pledge; as against all personal property held in fraud of creditors, and as against all stocks in trade, etc., of merchants and manufacturers. But not as against lands, mortgaged or conveyed, longer than the last year. Property must be listed for taxation between January 1st and February 20th of each year.

Wills. All wills of real and personal property must be signed by the testator or some one for him in his presence and by his express request, and be attested and subscribed in the presence of the testator and of each other by three or more credible witnesses. Exemplifications of wills regularly proved in foreign Courts may be admitted to probate on certificate of judge of such court.

SOUTH DAKOTA.

BANKING LAW.

(Revised by HORNER & STEWART, Attorneys at Law, Pierre.)

Not less than three natural persons, one-third of whom shall be residents of the State, may form an association for carrying on the business of banking. They must enter into and sign articles of association. An organization certificate which shall specifically state (1) the name assumed by the association, not to be the same as that of other bank in the State; (2) the place where the business of discount and deposit are carried on; (3) the amount of capital stock, and the amount into which its shares are to be divided; (4) the names and places of residence of the shareholders, and the number of shares held by each of them; (5) the period at which such bank shall commence and terminate business; must be made under their hands and acknowledged before a clerk of some court of record, or Notary Public. This certificate shall be recorded in the Register of Deed's office of the county where the bank may be established, and then transmitted to the Secretary of State for record.

Upon fulfilling the requirements, the associations shall have power (1) to have corporate seal; (2) to have succession for a period of twenty years, unless dissolved or franchise forfeited; (3) to make contracts; (4) to sue and be sued; (5) to elect directors and officers; (6) to prescribe by-laws; (7) to exercise by its board of directors such incidental powers as are necessary to carry on the business of banking.

Such banking associations have power to purchase, hold, and convey real estate for the following purposes, and no other: (1) Such as may be necessary for its immediate accommodations in the transactions of business; (2) such as shall be mortgaged to it in good faith by way of security for debts previously contracted; (3) such as shall be conveyed to it in good faith in satisfaction of debts previously contracted in the course of its dealings; (4) such as it shall purchase at sales under judgments, decrees or mortgages held by the association, or shall purchase to secure debts due to it; but no such association shall hold the possession of any real estate under mortgage, or the title and possession of any real estate purchased to secure the debt due to it for a longer period than two years.

In towns of 500 inhabitants or less, the capital must be at least \$5,000, unless a special permit be given by the Secretary of State; in towns of over 500 inhabitants and less than 1,000, the capital must be at least \$10,000; in towns of over 2,000 inhabitants the capital must not be less than \$25,000. At least 50 per cent. of the capital stock must be paid in before the association shall be authorized to commence business, and at least 10 per cent. of remainder at the end of each succeeding 6 months thereafter. Shares of stock shall be \$100 each, and shall be deemed personal property. Banking associations may be dissolved by Circuit Court upon their application. The capital stock may be increased or diminished upon an application, and proper showing made to the Secretary of State.

The directors of an association may semi-annually declare a dividend of net profits, but each association shall, before the declaration of a dividend, carry one-tenth part of its net profits of the preceding half year to its surplus fund until the same shall amount to 20 per cent. of its capital stock.

Every director must own, in his own right, at least ten shares of capital stock. No association or member thereof shall, during the time it shall continue its banking operations, withdraw or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital.

At least four reports showing resources and liabilities must be made each year to Public Examiner. Special reports must be made at request of Public Examiner.

The shareholders are individually responsible, equally and ratably, and not one for the other, for all contracts, debts, and engagements of such association, made or entered into to the extent of the amounts of his stock therein at par value, in addition to the amount invested in and due on such shares.

Each association shall at all times have on hand in available funds an amount equal to 20 per cent of its deposits, one-half of which may consist of balances due the association from solvent banks, and one-half cash on hand.

COMMERCIAL LAW.

Acknowledgments of deeds or instruments within the State may be made before a Justice, Clerk of the Supreme Court or Notary Public, and within the judicial district, county subdivision, or city for which the officer was elected or appointed, before the Judge or Clerk of any Court of Record, Mayor, Justice of the Peace, Register of Deeds, U. S. Circuit or District Court Commissioner, a County Clerk or County Auditor. If without the State, before any Judge or Clerk of a Court of Record of the United States, or any State or Territory, Notary Public or any other officer of the State or Territory where the acknowledgment is made, authorized by its laws to take such proof or acknowledgment, or Commissioner of Deeds appointed by the Governor of this State. In foreign countries, before a Minister, Commissioner, Diplomatic or Consular Agent of the United States, or a Judge or Notary Public of said country. Letters patent from the United States and final Receiver's receipts from the United States Land Offices may be recorded without acknowledgment or further proof.

Assignments and Insolvency. Insolvent debtor may in good faith make assignment in trust for benefit of creditors which may provide for any subsisting liability of the assignor, whether absolute or contingent. Such assignment is subject to provisions of the code relative to trusts and fraudulent transfers. Any debtor may make assignment, without preference of creditors, but is not relieved from liability for any unpaid balance to his creditors.

Attachment process issues at the time of granting the summons or at any time afterward in actions on contracts for the recovery of money only, or for wrongful conversion of personal property, against a foreign corporation or non-resident defendant, or when defendant has absconded or concealed himself, or has assigned, disposed of, or secreted his property, or is about to do so with intent to defraud creditors, or that the debt was incurred from property obtained under false pretenses. Plaintiff must make affidavit and furnish bond in not less than \$250, nor more than amount claimed in Circuit Courts, and at least \$50 and not exceeding \$300 in Justices' Courts. Real and personal property, debts, moneys, credits and bank-notes may be attached or levied on under execution or attachment.

Chattel Mortgages must be filed in the office of the Register of Deeds in the county in which the property is situated. The filing must be renewed the third year, at least thirty days before the expiration of that time. The copy of the mortgage and a statement of the amount of existing debt, verified by affidavit, must be filed anew at that time. It must be signed by the mortgagor, in the presence of two witnesses, who must sign the same as witnesses. May be foreclosed by advertisement and sold by sheriff.

Courts. Terms and Jurisdiction. Circuit Courts have exclusive chancery and common law jurisdiction above \$100, and where title to real property is concerned. Courts sit twice a year in nearly all the counties. County Courts hold two terms a year, and are always open for business. They have exclusive probate jurisdiction, and in counties of a population of 10,000, civil jurisdiction concurrent with the Circuit Courts to \$1,000; in counties of a less population, \$500. Justice's jurisdiction, \$100. Circuit and County Courts also have concurrent jurisdiction with Justices' Courts for sums less than \$100.

Depositions may be taken when witness does not reside in the county where the action is brought, or is absent therefrom; or when from age, infirmity, or imprisonment witness is unable to attend

court, either party may commence taking at any time after service, and may be taken in the State before Judge or Clerk of the Supreme Court, or Circuit Court; or before the Justice of the Peace, Notary Public, United States Circuit or District Court, Commissioner, or any person empowered by special commission.

May be taken out of the State by a Judge, Justice or Chancellor, or Clerk of any Court of Record, Justice of the Peace, Notary Public, Mayor of any city, a Commissioner appointed by the Governor to take depositions, or any person authorized by the special commission from any court of this State. The officer before whom taken must not be interested, or relative, or attorney of either party.

Are taken upon notice, signed by attorney, and the adverse party given sufficient time to travel to the place of taking by the usual route, and one day for preparation, exclusive of Sundays and day of service; and may be adjourned from day to day. Must be written by the officer or in his presence by the witness, or some disinterested person, and subscribed to by the witness. When taken must be sealed up, endorsed with title of the cause, name of officer taking the same, and by him addressed and transmitted to the clerk of the court where action is pending; must be filed at least one day before trial.

Exemptions. Homestead; one acre if within a town plat and 160 acres if not, with house and appurtenances, \$5,000 in value. Exemption is absolute except as to taxes, laborers' or mechanics' wages or for physicians' services, mechanics' lien for work on the homestead, property obtained under false pretenses, and debts created for the purchase thereof. Personal property exempt, \$750 or an enumerated exemption in lieu thereof.

Executions issue as of course at any time within five years after judgment, and must be returned within sixty days. Lands levied on need not be appraised, but notice of sale must be given. Same provisions apply in Justices' Courts as to levy, etc., on personal property. There is no stay law, and execution can only be stayed by order of the court for irregularity, by injunction, or by appeal with security given. Real estate sold under execution may be redeemed within one year.

Garnishment. This remedy lies whenever attachment does, but applies only to Justice Courts, upon affidavit for it showing indebtedness, and that some person or corporation within the county where the action is brought has property, money, or credits in his hands or under his control belonging to the defendant. No undertaking is required. Property must be delivered and money paid into Court or undertaking given to the plaintiff, with one or more sureties, that the amount will be paid or the property forthcoming as the Court may direct.

Interest. Legal rate seven per cent., but parties may contract in writing for twelve per cent., except in the counties of Lawrence, Pennington, and Custer, where the usury law does not apply and any rate of interest may be charged as may be agreed upon. Usury forfeits usurious interest. Interest on open accounts runs from date of last item charged, whether debit or credit. Legal rate allowed on judgments.

Judgments of courts of record are a lien on all real estate except the homestead for ten years from time such judgment is docketed in the Clerk's office of the county where the land is situated, and, by having execution issued every five years, are good for twenty years. In courts of record judgment may be obtained within thirty days after service of summons and complaint; in Justices' Courts, four days, where no defense is interposed.

Limitations. Personal actions, two years; on contracts or obligations, six years; on sealed instruments and in real actions, twenty years; on judgments or decrees of any court, ten years.

Married Women retain their own real and personal property, and may make contracts, sue and be sued as if *sole*. Neither husband nor wife has any interest in the property of the other. Dower and curtesy are abolished. Married women retain the same legal existence and personality after as before marriage, and shall receive the same protection of all rights as a woman which her husband does as a man, and has the same right to sue in her own name as her husband has in his.

Mortgages of realty must be in writing, with the formalities required in case of a grant of real estate. Wife need not join except in mortgage of homestead. If containing power of sale, may be foreclosed by advertisement without intervention of court. Mortgagor has possession of the premises during the year of redemption after sale.

Notes and Bills of Exchange. There is no statutory law requiring that commercial paper should be made payable at a bank or at any other specified place. Three days of grace allowed on all bills of exchange or sight drafts, whether foreign or domestic, and on all promissory notes, bills of exchange and drafts, on the face of which time is specified, and notes on demand for payment of same. Acceptances must be in writing by the drawee or an acceptor for honor. To hold indorser, the instrument must be presented on the day of maturity, and notice of dishonor given. Damages are allowed in favor of holders for value on bills of exchange drawn or negotiated within the State and protested for non-acceptance or non-payment. Apparent maturity of a non-interest bearing sight or demand note is ten days after date, in addition to the time required for transmission; on interest-bearing notes, one year from date. Holidays are every Sunday, the 1st of January, the 22d of February, the 30th of May, the 4th of July, the 25th of December, every general election day, every day appointed by the President of the United States or by the Governor of the State for a public fast, thanksgiving or holiday. If the 1st of January, 22d of February, 4th of July or 25th of December falls on Sunday, the Monday following is a holiday. Bills and notes falling due on a holiday are deemed due and payable on the following day.

Suits. Actions in courts of record are commenced by server of summons, and service may be made by leaving copy with defendant in person or by delivering a copy to a member of defendant's family (at the defendant's dwelling house) over the age of 14 years; or, if defendant is non-resident, by publication. All civil actions must be prosecuted in the name of the real party in interest.

Taxes become due and payable on the first day of January, and delinquent on the first Monday of March following, and draw twelve per cent. interest thereafter until paid, the interest

being added on the first day of each month. Lands are sold after 1st of November following, and may be redeemed within two years, by payment of purchase money and interest at the rate of fifteen per cent. per annum and all taxes subsequently paid. Taxes become a lien on real property on November 1st of each year, if not paid before that time, and collectors may proceed to enforce collection on and after January 1st following the levy, by distress and sale.

Wills. Every person over the age of eighteen years, of sound mind, may, by last will, dispose of all his or her estate, real and personal. A married woman may dispose of all her separate estate by will, without the consent of her husband. A will must be subscribed at the end thereof by the testator himself, or some person in his presence, and by his direction must subscribe his name thereto. The subscription must be made in the presence of the attesting witnesses, or be acknowledged by the testator to them, to have been made by him, or by his authority. The testator must at the time declare to the attesting witnesses that it is his will. There must be two attesting witnesses who must sign their names at the end of the will, at the testator's request and in his presence.

Nuncupative wills are valid when the estate bequeathed does not exceed in value \$1,000. Must be proved by two witnesses. The decedent must, at the time of making, have been in military service, in the field or at sea, or at the time in expectation of immediate death from an injury received the same day.

TENNESSEE.

BANKING LAW.

(Revised by J. M. DICKINSON, Attorney at Law, Nashville.)

All persons and partnerships paying taxes for the use of money, as money dealers, may receive deposits, issue checks or bills of exchange, or discount bills, notes, etc., but shall not be allowed to charge on bills a greater discount than legal interest and exchange.

State banks may be chartered at any time in same manner as other private corporations, and, if they so choose, may couple with the usual banking business, a safe deposit and trust company. They may do all acts usually performed by banks, except issue notes as currency; allow three per cent. interest on deposits, advance money on real and personal property and sell same; and, if the safe deposit and trust feature is added, may take on deposit jewelry and other valuables and guarantee the preservation and delivery of same; guarantee the titles to real estate and the payment of bonds and mortgages; execute trusts of every description; and own a vault, and rent out boxes for the keeping of valuables, but shall not be liable for loss by fire, theft, or other cause. Stockholders not liable, except for payment of stock subscribed by each. Every six months banks must publish a statement of their condition. The Secretary of State is made a Bank Examiner, and required to examine each bank quarterly and report to the Comptroller, and each bank is subject to legislative inspection. There is no law regulating the class of bonds in which Savings banks may invest.

COMMERCIAL LAW.

Acknowledgments within the State must be taken before a Judge, or Chairman or Clerk of a County Court, or his deputy, or a Notary Public. In other States before any Judge or Clerk of a Court of Record, Notary Public or Commissioner of Tennessee. The certificate of a Notary Public or a Commissioner under his seal of office is sufficient proof of his official character. The certificate must be in the form prescribed by statute. In case of acknowledgment by husband and wife, the privy examination of the wife is taken in addition. If made out of the United States, must be under seal before a Commissioner of Tennessee, a Notary Public, or an Ambassador, Minister or Consul of the United States.

Administration. Letters of administration are granted: 1. To the husband or widow; 2. To the next of kin; 3. To the largest creditor; 4. To the public administrator, if no one applies in six months. All property, real or personal, are assets for payment of debts. Preferred debts are, funeral expenses, expenses of administration, and debts due the State.

Assignments and Insolvency. No insolvent law. No preferences allowed. Insertion of such clause does not render a general assignment invalid, but *that* clause is nugatory. General assignment must be accompanied by sworn schedule of assets; if not, it is fraudulent and void. A general assignment nullifies all judgments by confession or collusion, also mortgages of a portion of debtor's property made within three months, and in contemplation of making a general assignment, except those to secure the payment for property bought or money loaned, or for necessary advancements to enable owners of crops to make and save them; provided the instrument is executed at time of buying the property or borrowing the money or making the contract for said advancements to be made, and fixes the amount. Assignee or trustee entitled to all assignor's property not exempt by law, whether same be included in assignment or not. Such assignment does not operate as a discharge from liabilities.

Preferences may be made by a special assignment of particular assets to secure specified creditors. A valid sale in payment of preexisting debt may be made.

Attachment process will issue where the debtor resides out of the State; is about to remove or has removed himself or property from the State; has removed or is removing himself from the county privately; is concealing himself, so that the ordinary process of law can not be served upon him; absconds or is absconding or concealing himself or property; has fraudulently disposed

of or is about fraudulently to dispose of his property; or when any person, liable for any debt, residing out of the State, dies, leaving property in the State. Attachment will also issue on demands not due, in all the above cases except the first; also in above cases at suit of surety or accommodation indorser on paper due and not due. When debtor and creditor are non-residents of this State and are residents of the same State, the creditor shall not attach unless the property has been fraudulently removed to evade process in their State. Debts due and not due owing to the defendant, and property of the defendant of any kind in the hands of a third person, are subject to garnishment. There is no imprisonment for debt on civil process.

Corporations. Private corporations, for a variety of purposes, embracing almost every industry, may be formed under section 1691 *et seq.* M. & V. Code, by five or more persons over the age of twenty-one, copying the form of charter adapted to the purpose, and appending an application to the State of Tennessee for such charter, and acknowledging and registering the same in the county where the principal office is to be situated, and in the office of the Secretary of State, and then registering in the said county the certificate of registration given by the Secretary of State, and a *fac simile* of the State seal.

The name and capital stock may be changed, and new powers added, by the Board of Directors copying the proposed amendment, and signing an application therefor to the State of Tennessee, and acknowledging and registering the same in the same way as provided for charters.

The general powers of such corporation shall be to sue and be sued, to have and use a common seal, to hold, in addition to personal property, real estate necessary for corporate business, and real estate in payment of debts, and to sell realty for corporate purposes, and to establish by-laws, etc., not inconsistent with the laws and constitution, to appoint officers and agents, to designate name of office and officers and compensation of officers, to borrow money and issue notes and stock upon corporate property, and secure same by mortgage.

A failure to elect officers does not dissolve the corporation, but incumbents shall hold until appointment and qualification of successors, and terms may be fixed by by-laws, but not to exceed two years. It may, by by-laws, regulate subscriptions and transfer of stock, fix capital to be invested in the enterprise, and division into shares, and time for payment by subscribers, and amount of calls, and in case of failure of any stockholder to pay his subscription he may be sued.

There may be five or more directors elected in person or by proxy by a majority of votes cast, each share representing one vote. They shall keep a full and true record of proceedings, and put on minutes annual statement of receipts and disbursements, subject to inspection of stockholders. A majority shall constitute a quorum, and shall fill vacancies until next election. The first board shall consist of the five or more incorporators who obtained charter.

The books shall show names of stockholders, and interest and amounts paid for subscriptions, the transfer of stock by and to whom, and all other transactions of interest to stockholders.

Unpaid stock subscribed shall be a fund for payment of debts due from the corporation, and transfer of stock by subscriber does not relieve him from payment, unless transferee has paid all due on his original subscription.

The corporation has no powers except those expressly given, or necessarily implied from the nature of the business, and by no inference may it discount notes or bills, deal in gold or silver coin, issue evidence of debts as currency, buy and sell agricultural products, deal in merchandise, or engage in any business outside of the purposes of the charter, except it be under a charter expressly authorizing these acts, but corporations formed for manufacturing raw material by machinery into useful articles, whether of wood or metal, or a combination of them, may deal in articles so manufactured and articles properly connected therewith. Such corporations are liable to the payment of privilege taxes as dealers.

All such charters may be repealed or amended at any time. If any fundamental amendment be not accepted by a vote representing more than half of the stock the corporation shall be liquidated. If such amendment be accepted by the corporation said corporation shall pay any dissenting stockholder the value of his stock, not exceeding par, and shall also pay on the same basis to persons under disability for their stock, but the claims of creditors shall take priority over them.

All stock in the corporation so formed is subject to execution. Intentional fraud in failing to comply substantially with the charter, or in deceiving the public or individuals, diversion of funds of the corporation, the payment of dividends without leaving sufficient funds to meet liabilities, keeping false accounts, by which injury is sustained, and the making of a false report, and frauds, subject those concerned therein to the penalties of misdemeanor, and liability to suit for damages.

The charter will be forfeited if the Board of Directors participated in such acts.

Non-user shall not operate as a dissolution unless all the corporate property has been appropriated to the payment of debts.

All such corporations whose charters are terminated shall exist for five years thereafter for the purposes of liquidation only, and the managers of the business at the time of such dissolution are trustees for the stockholders and creditors for the purposes of liquidation.

Courts. Terms and Jurisdiction. Circuit Courts hold three terms annually, and have general common law jurisdiction in all cases involving over \$50. Chancery Courts, holding two terms annually, have full equity jurisdiction above \$50, and concurrent jurisdiction with the Circuit Courts of all civil causes, except actions for injuries to person, property, or character, involving unliquidated damages. Justices of the Peace have jurisdiction in equity up to \$50; on all unsettled accounts, obligations, contracts, etc., to and for recovery of property, and for damages, except for libel and slander, up to \$500; upon all notes and upon indorsement of negotiable paper where demand and notice are expressly waived in the instrument, up to \$1,000.

Deeds. Until registered, deeds are not good, except between parties and privies. Lands held by unregistered deeds are subject to debts of both vendor and vendee. Wife must join in deed to convey homestead.

Depositions. Evidence may be taken by depositions in civil actions by either party.

(1.) When the witness from age, bodily infirmity, or other cause, is incapable of attending, to give testimony at the trial. (2.) When he resides out of the State. (3.) When he resides in the State, but not within the limits of the county in which the suit is pending, in which case the adverse party may, if he desire to have the witness examined in open court, cause him to be subpoenaed. (4.) When he is under the necessity of leaving the State before the cause is tried, or even before it is at issue. (5.) When he is about to leave the county in which the suit is pending, and will probably not return until after the trial. (6.) When he is the only witness to a material fact. (7.) When he is an officer of the United States, an officer of this State, or of any county in the State, the clerk of any court of record other than that in which the suit is pending, a member of the General Assembly while in session, or clerk or officer thereof, a practicing physician or attorney, a jailer or keeper of a public prison in any county other than that in which the suit is pending. (8.) When he is a notary public, whether a suit be pending or not; to be evidence between the same parties in any suit then or thereafter pending, should the notary die or remove out of the State before the trial. (9.) When a suit is brought by a party in *forma pauperis*.

Female witnesses can not be compelled to attend in civil suits in person, except upon sufficient cause and order of court therefor.

The deposition of any person residing in the county where the suit is pending may be taken by either party, and said witness may be summoned at the trial.

Depositions in cases enumerated in above sections 1, 4, 5, and 6 may be taken at any time after action brought upon such a notice as a court of justice may order, or upon giving five days' notice when depositions are taken in the county where the suit is pending, and when taken out of the county for 50 miles, or under, five days; from 50 to 100 miles, ten days; 100 to 250 miles, fifteen days; 250 to 500 miles, twenty days; over 500 miles, thirty days. If within the United States, and west of the Rocky Mountains, such a time as the court or clerk may order, not exceeding forty days. In foreign countries, such time as the court or clerk may order.

Service of notice may be made upon counsel of non-resident parties.

When the witnesses reside out of the State or over 150 miles from the place of trial, either party may take depositions by filing interrogatories with the clerk, giving the opposite party notice thereof, who shall have ten days thereafter to file cross-interrogatories, to which rebutting interrogatories may then be put; at any time after which the deposition may be taken upon a certified copy of the interrogatories to be issued by the clerk.

Any person authorized to take depositions is, while engaged in the discharge of his duties, vested with all the powers of the court to preserve order, prevent interruption, and control the conduct of the parties in the examination of the witness.

The commissioner, having first sworn the witness according to law, should require the questions to be reduced to writing before being put, and then read to the witness, and should take down his answers in writing, or cause the same to be done by the witness himself, as near as may be in the witness' own words.

The depositions, when complete, shall be enveloped together with the commission, if any, and all documents which may have been deposed to, sealed, with the commissioner's name written across the seal, and directed to the clerk of the court where the cause is pending with the title of the cause indorsed thereon, and may be sent by mail, express, or private conveyance. If sent by private conveyance the person delivering it shall make affidavit before the clerk that he received the deposition from the commissioner, that it has not been out of his possession, or opened by him, or while in his possession.

The commissioner, or person authorized to take depositions has power to issue subpoena for witnesses, which may be served by the sheriff or any constable; and the certificate of the commissioner, or person authorized, that the witness failed to appear, together with the return of the officer, is proof of the fact.

Deposition may be taken by any judge, justice of the peace, mayor or chief magistrate of a town or city, the clerk of any court, or any other person properly commissioned or appointed by the court or clerk, not being interested, of counsel, or related to either of the parties within the sixth degree, computing by the civil law. They may also be taken by any notary public of this and other States, in the county in which he resides, and the certificate of the notary shall show his locality. Depositions may be taken in all cases pending before justices of the peace, under the same rules, regulations, and restrictions as in cases pending in the courts of record.

Executions may issue forthwith, and from Circuit Courts are returnable to the succeeding term; from Justice's Courts in thirty days. Stay of eight months may be had in judgments of a Justice by furnishing security. Debtor has two years in which to redeem realty sold under execution.

Exemptions. Homestead, \$1,000. Personal property consisting of household goods, supplies, tools and stock, etc., amounting in all to about \$1,200.

Interest. Legal rate, six per cent. Contract for more is void as to excess, and an instrument showing usury on its face can not be sued on.

Judgments. From court of record are a lien from date of rendition for one year on all lands then owned by defendant, and on after-acquired lands for one year after acquirement.

Limitations of Suits. Upon bonds, notes, accounts and contracts generally, six years; judgments or decrees of courts of record and other cases not expressly provided for, ten years. Revivor: Acknowledgment, expressed willingness to pay or promise; part payment not in itself sufficient. All demands against administrators and executors must be presented or sued on in two years and six months, if a resident, and three years and six months if a non-resident.

Married Women can hold real and personal property separate from the husband, and not liable for his debts. Widow takes dower in one-third of the lands of which her husband died seized, and where the husband dies intestate and without heirs, she takes his entire real estate absolutely; subject, however, to the payment

of his debts. She takes all the personalty if no children, but if there are children, then a child's part only. Rents and profits of wife's lands not subject to husband's debts, nor can husband's life interest in wife's land be sold during her life. The husband is not liable for the ante-nuptial debts of his wife, but his marital rights do not so attach to her property as to defeat the collection of same. Married women can not make power of attorney to sell land.

Mechanics' Lien. For one year upon any ground upon which a house is constructed or repaired, or fixtures, etc., put in, in favor of the person doing the work. Covers the lands of married women. Benefit extends to any workman or furnisher of material giving notice to owner within 30 days after the completion of building, or his discharge, or the completion of his contract. Railroad contractor, sub-contractor, furnisher of material, and every one who does any valuable service, manual or professional, for railroad, shall have lien for one year; if within 90 days after work done or material furnished, written notice is given railroad company or owners. No mortgage or contract with construction company shall be superior to this lien.

Merchants. Corporations are chartered to carry on the trade of merchants, with no personal liability to stockholders.

Mortgages and deeds of trust take effect as to third parties only from registration. Can be foreclosed without intervention of court when power of sale is conferred in the instrument. Chattel mortgages are good as to the contracting parties without registration, but not as against purchasers without actual notice, and creditors. It is a felony for maker of registered mortgage of personal property to dispose of same with purpose of depriving beneficiary of same. Railroad can not make a mortgage which shall be superior to judgments for timbers furnished, or labor, or for damages done to persons or property in operation of road.

Notes and Bills of Exchange. Days of grace are not allowed on bills of exchange payable at sight. Negotiable paper falling due on January 1, July 4, December 25, February 22, Good Friday, Decoration Day, Memorial Day, Labor Day (and when any of these days fall on Sunday then the following Monday to be substituted); also all county, State or National election days or any duly appointed day of fasting or thanksgiving, is due on the previous day, unless such previous day is Sunday, in which case it is due on the Saturday preceding.

Taxes are a lien on the real estate on which they are levied, and as between vendor and vendee they are a lien from January 10th of the year for which they are assessed; as between the State, county, city and the owner, they are a lien for six years from January 10th of year for which they accrued, after which they are barred. Payable first Monday in October of the year they are assessed. After first Tuesday in February following taxes bear interest, and distress warrants are issued for collection. After default to first Monday of July of the following year bills are filed in Chancery Court, and the property is sold. State tax is 45 cents on the \$100. Counties may levy same amount for general purposes. Merchants pay 45 cents on each \$100 of the average capital invested, and a privileged tax of 30 cents on each \$100 worth of taxable property.

Wills. No will can convey an estate in lands unless written in testator's life time and signed by him, or by some person in his presence by his direction, and subscribed in his presence by two witnesses at least, neither of whom is interested in the devise of said lands; but a paper writing purporting to be the will of the deceased person, written by him, having his name subscribed to it or inserted in some part of it, and found after his death among his valuable papers, or lodged in the hands of another for safe-keeping, shall be good and sufficient to give and convey lands, if the handwriting is generally known by his acquaintances, and it is proved by at least three credible witnesses that they verily believe the writing, and that every part of it to be in his hand.

Every devise shall convey the entire estate of the testator in lands unless the contrary plainly appears from the context.

No nuncupative will shall be good where the estate exceeds \$250, unless proved by two witnesses, disinterested, present at the making thereof, and unless some of them were especially requested to bear witness thereto by the testator himself, and unless it was made in his last sickness in his own habitation, dwelling house, or where he had been previously residing ten days at least, except he be surprised by sickness on a journey or from home and dies without returning to his dwelling, and such will must be proved within six months of the making thereof, unless it were put in writing within ten days, and it can not be proved until fourteen days after death of testator, nor until process has issued to call in the widow, or next of kin, or both, if conveniently to be found, to contest it. No written will shall be revoked or altered by a nuncupative will, except the same be reduced to writing in the life of the testator, and read over to him and approved, and unless the same be proved to have been so done by at least two witnesses capable to testify at common law.

A married woman may dispose of any estate in the execution of a special power to that effect by will, and her signature should be made or the will be acknowledged by her in the presence of at least two witnesses, subscribing the will with their names in the presence of the testatrix.

TEXAS.

BANKING LAW.

(Revised by WILLIAM L. McDONALD, Attorney at Law, Dallas.)

The constitution of 1876 says: "No corporate body shall hereafter be created, renewed or extended with banking or discounting privileges." There is no provision of law for the official examination of State banks, nor are such banks required to make any public statements of their condition, or to make reports to any State official. A number of State banks chartered before the adoption of this provision of the Constitution are still engaged in business.

COMMERCIAL LAW.

Accounts, How Sworn to. Open accounts should have attached the affidavit of the plaintiff, his agent or attorney, to the effect that such account is, within the knowledge of affiant, just and true, that it is due, and that all just and lawful offsets, payments and credits have been allowed. If made by agent or attorney, the body of the affidavit should allege the fact. Affidavit *prima facie* evidence in all commercial accounts; not in case of isolated transaction based on special contract.

Acknowledgments of Instruments for Record may be made without the State, but within the United States, or Territories, before Clerk of some court of record having a seal, Commissioner of Deeds for Texas, Notary Public; without the United States, before a Minister, Commissioner, or Charge d'Affaires, Consul General, Consul, Vice-Consul, Commercial Agent, Vice-Commercial Agent, Deputy Consul, or Consular Agent of the United States, Notary Public; within the State, before a Clerk of the District Court, a Judge or Clerk of the County Court, a Notary Public.

Affidavits, within this State, may be made before a Clerk of the District Court, or Judge or Clerk of the County Court, or a Notary Public; without this State, and within the United States, before a Clerk of a Court of Record having a seal, a Notary Public, Commissioner of Deeds for Texas; without the United States, before a Notary Public, Minister, Commissioner or Charge d'Affaires, Consul General, Consul, Vice-Consul, Commercial Agent, Vice-Commercial Agent, Deputy Consul, or Consular Agent of the United States.

Aliens who become residents of Texas, and have declared their intention to become citizens of the United States, have all the property rights of citizens. Aliens who owned real estate prior to July 11, 1891, have the same property rights as are accorded to citizens of the United States by the laws or treaties of the nation of which the alien is a citizen; this is also the case as to lands acquired since July 11, 1891, which are situated in an incorporated or platted city, town, or village.

Aliens who are *bona fide* residents of Texas may, during their residence, own lands the same as citizens.

Non-resident aliens who, since July 12, 1892, acquire lands not in an incorporated or platted city, town, or village, must *bona fide* dispose of the same within ten years from their acquisition; if this is not done, ninety days notice is first given by the attorneys for the State to the alien by registered letter, and then escheat proceedings are instituted; the property would finally be sold and the net proceeds paid to the alien. Minors and lunatics have additional time. Aliens may pass title at any time prior to the institution of the escheat suit.

The law expressly provides that it shall not prevent aliens from acquiring and holding title to lands, or any interest therein, in the ordinary course of justice, nor from acquiring and enforcing liens, or lending money upon real estate.

Appeals to the Supreme and Appellate Courts for delay, will be affirmed, with ten per cent. on the amount in dispute, as damages, together with interest and costs.

Attachments issue, on bond in double amount of debt being given, and affidavit of plaintiff; that defendant is justly indebted to plaintiff, and the amount of the demand; that attachment is not sued out for purpose of injuring or harassing defendant; that plaintiff will probably lose his debt unless such attachment is issued; and stating, further, either of following grounds, that the defendant (1.) Is not a resident of the State, or is a foreign corporation, or is acting as such. (2.) Is about to remove permanently out of the State, and has refused to pay or secure the debt due the plaintiff. (3.) Secretes himself so that the ordinary process of law can not be served on him. (4.) Has secreted his property for the purpose of defrauding his creditors. (5.) Is about to secrete his property for the purpose of defrauding his creditors. (6.) Is about to remove his property out of the State, without leaving sufficient remaining for the payment of his debts. (7.) Is about to remove his property, or a part thereof, out of the county where the suit is brought, with intent to defraud his creditors. (8.) Has disposed of his property, in whole or in part, with intent to defraud his creditors. (9.) Is about to dispose of his property with intent to defraud his creditors. (10.) Is about to convert his property, or a part thereof, into money, for the purpose of placing it beyond the reach of his creditors. (11.) That the debt is due for property obtained under false pretenses. Suit for damages growing out of attachment proceedings may be brought in any county from which the writ issued, or where the levy was made in whole or in part. This gives the debtor the option of place of trial. No attachment shall issue until suit has been instituted, but it may issue at the commencement of the suit, or at any time during its progress. It may issue before plaintiff's debt is due, but no final judgment shall be rendered against defendant until the debt becomes due. The defendant may replevy property attached by giving bonds, with two sureties, in double the amount of the debt, or double the value of the property replevied as estimated by the officers. The priority of attachment liens exists as at common law, except that a levy on land must be registered with the County Clerk.

Writs of Garnishment may also issue on application and affidavit of plaintiff, his agent or attorney, to persons owing defendant, or holding effects of his in possession, or corporations in which the defendant is a stockholder. If sued out before judgment, bond in double amount of debt is required; if after judgment, no bond required. Said affidavit shall state that the amount claimed is just, due, and unpaid, and that affiant does not know of property of defendant in this State liable to execution sufficient to satisfy the claim, and that he has reason to believe the garnishee, naming him, is indebted to, or has property or effects of the defendant, and that the garnishment is not sued out to injure garnishee or defendant. Final judgment must be rendered against defendant before judgment can be had against the garnishee. When debt is not due writ of garnishment can issue only when writ of attachment has been issued; in this case no bond is required for the writ of garnishment. In garnishment as in attachment, defendant may, before judgment, replevy whatever is garnished by filing bond with two good sureties, and may then make any defense which the garnishee could make in such suit.

Bill of Lading. Common carriers are required when they receive goods for transportation to give the shipper, when it is demanded, a bill of lading stating the quantity, character, order, and con-

dition of the goods; and such goods shall be delivered in the manner provided by common law in like order and condition to the consignee, the unavoidable wear and tear and deterioration in due course of transportation only excepted. Liability as at common law for damages. Penalty for refusal to execute and deliver bill of lading is not less than \$5 nor more than \$500. to be recovered by the injured party in any Court having jurisdiction in the county where the wrong is done. Bill of lading is *prima facie* evidence of ownership of goods in transit by the consignee. Carriers cannot restrict their liability by any general or special notice, or by inserting exceptions in a bill of lading; and this rule is applied to a through bill.

Chattel Mortgages, to be valid as to creditors, and as to purchasers without notice, must be accompanied by immediate delivery, followed by actual and continued change of possession of property, unless the same, or a true copy thereof, is filed in the County Clerk's office of county where mortgagor resides, or if he is a non-resident of the State, then in the county where the property is situated. And all reservations of the title to chattels as security for the purchase money thereof (by a statute which took effect ninety days from March 31, 1885) shall be held to be chattel mortgages, and shall, when possession is delivered to the vendee, be void as to creditors and *bona fide* purchasers, unless such reservation be in writing, and filed as required of chattel mortgages. This statute destroys the effect of a *Conditional Sale* as security for purchase money. Mortgages are held to be mere security for the debt, and must be enforced by sale of property, either through a decree of foreclosure or power of sale given in the mortgage; sale of property, upon death of mortgagor, must be enforced through Probate Court. A certified copy of a chattel mortgage is admissible in evidence in lieu of the original, unless the execution of the original has been denied under oath by the party sought to be charged thereby; provided, such certified copy shall be filed in the case before announcement of ready for trial.

Collaterals. Holder of claims as collateral security who fails to use due diligence to collect is liable for loss. Is not affected by limitation against the debt. After the death of the debtor the creditor may still collect the collaterals. Surety on principal debt is subrogated to rights of creditor as to collaterals. If, by negligence or design, the creditor loses the collateral, the surety on the principal debt is to that extent discharged. Note pledged as collateral can be held for no other debt. Taking collateral security does not extinguish original contract.

Commercial Traveler. Commercial travelers are not required to take out a license. Solicitors for books, maps, nurseries, newspapers, and grave stones are exempt from tax.

Corporations. In suits by. Not required to prove corporate existence, unless defendant deny same by sworn plea. Private corporations for most general purposes of business, except banking, may be created under the provisions of the general law. Corporations can not be formed for an ordinary retail mercantile business, except corporations where no person owns more than \$500 of the stock designed for the benefit of the Farmers' Alliance, but can be formed for a wholesale business. Corporations created outside of this State desiring to transact business in it are required, as a pre-requisite thereto, to file with Secretary of State certified copy of its articles of incorporation, accompanied by a fee, proportioned to their capital, of from \$25 to \$200.

Courts. Terms and Jurisdiction. Federal Court, two terms each year, at Dallas, Waco, Graham, Galveston, Tyler, Jefferson, Brownsville, San Antonio, Austin, and El Paso; ordinary jurisdiction, where matter in dispute exceeds sum or value of \$2,000. The State Courts are as follows: District Court, two terms each year, generally; in Harris county five; in Dallas county six; in Galveston five; in Bexar six; in Tarrant six; in Grayson three, and in McLennan seven terms; jurisdiction exclusive as to land titles, and where value or sum over \$1,000, exclusive of interest; and concurrent with County Court from \$500 to \$1,000. Dallas county and Galveston and Harris counties also have Criminal District Courts. County Court, four to eight terms a year, fixed by Commissioner's Court of particular county; jurisdiction exclusive from \$200 to \$500, except in a number of less populous counties, where its civil jurisdiction has been abolished—leaving it a Court of Probate only—and the District Court has jurisdiction instead. Justice's Court, term each month; jurisdiction to \$200. Clerks of Courts and Justices may require security for costs before issuing process, but shall file and enter suit. Civil cases may be appealed to the Courts of Civil Appeals, of which there are five branches, and in certain cases a further appeal can be taken to the Supreme Court.

Days of Grace. Three are allowed on all bills of exchange and promissory notes assignable or negotiable by law. Note payable on demand is not entitled to days of grace. When a note is payable so many months after date, the note will become due on the day of the month corresponding with the day of the date; that is, if it be dated on the tenth day of the month it will become due on the tenth, to which the days of grace are to be added. When a bill or note is payable a certain number of days after date, demand, or sight, the day of its date is excluded in computing time. Limitation does not commence to run until the expiration of three full days after the day of payment.

Depositions. All witnesses' depositions may be taken. The deposition of a party to a suit may be taken by the adverse party, *ex parte*, and without notice. To take the deposition of any other witness, it is necessary that the opposite party, or his attorney of record, shall be served with notice, stating name and residence of witness, together with copy of interrogatories, five days before the commission will issue. In taking the testimony the officer will make a caption, stating the name of the case, the appearance and residence of the witness, official title of the officer, etc., as is usual, and after swearing the witness, will proceed to take his answers to the several interrogatories and cross interrogatories separately, which being written must be "sworn to and subscribed" by the witness, to which fact the officer must certify under his hand and official seal.

Executions from District and County Courts issue after adjournment, and may, on application of successful party, issue twenty days after judgment, if no supersedeas bond has been filed and approved; from Justices' Court, eleven days after judgment; in all, upon plaintiff, his agent or attorney, making affidavit to certain facts, shall issue forthwith. No redemption of land sold

under execution. The time and place of making sale of real estate under execution shall be advertised by a notice thereof published once a week for three consecutive weeks immediately preceding such sale, in some newspaper published in the county where the land is situated. If no newspaper is published in said county, or defendant in execution requests same of the Clerk or Justice, three notices shall be posted at three public places in said county (one of which must be the court-house door) for twenty days before day of sale.

Exemptions. By the constitution of 1876, the homestead of a family not in a town or city consists of two hundred (200) acres of land, which may be in one or more parcels, with improvements thereon. In a city, town or village it consists of a lot or lots not to exceed \$5,000 in value at the time of their designation as the homestead, exclusive of improvements, provided the same be used as a home, or as a place to exercise the calling or business of a head of a family. The homestead is protected from forced sale or voluntary incumbrance except for taxes, or for the purchase money, or for improvements thereon, and in this last case, only when the work and materials are contracted for in writing, with the consent of the wife, given in same manner as required in making a sale of homestead. In case of death of the husband, the widow and children have one year's support from the estate, allowance therefor in no case to exceed \$1,000, and if the property exempt by law does not exist in kind, a sufficiency of the estate may be sold for cash, to raise allowance for homestead, not to exceed \$5,000, and for other exempt property not to exceed \$500. All household and kitchen furniture, all implements of husbandry, all tools and apparatus belonging to any trade or profession, all books, five milch-cows and calves, two yoke of work oxen, two horses and one wagon, one carriage or buggy, twenty hogs, twenty sheep, all provisions and forage on hand for home consumption, current wages for personal services, and sundry other articles, are also exempt. And to every citizen not the head of a family one horse, bridle, and saddle; all wearing apparel; any lot or lots in a cemetery for sepulture; all tools, apparatus, and books belonging to his trade, profession, or private library. Current wages for personal services are not subject to garnishment. Articles otherwise exempt may be made subject to valid liens.

Futures, Dealings in, with no intention of actual delivery, made a misdemeanor.

Insolvent and Assignment Laws. A general assignment, by insolvent debtor, must be recorded; have annexed an inventory, under oath, of all creditors; their residence; sum, and consideration due each; how evidenced; place created; collateral securities held by creditors; with statement of debtor's entire estate, giving values, but inventory, etc., does not have to accompany the assignment; their absence is an informality which may be supplied at any time. The absence of inventory is *prima facie* evidence of the withholding of a part of the estate from the assignee by the debtor, unless, upon request, he supply the defect. Whenever the assignee has sufficient funds of the estate in his hands to pay the per cent. of the debts due by the assignor he is required to make distribution among the creditors entitled. The assignee is entitled to reasonable compensation for services, costs, expenses and attorney's fees, to be fixed in case of dispute by the District or County Court. The assignee must file a final report under oath with County Clerk. Any action against the assignee, by reason of anything shown by such report, must be brought within one year from the filing of said report. Insolvent debtors may make assignments for benefit of such creditors only as will accept their *pro rata* in discharge of all liability; *provided*, the creditor receives as much as *one-third* of the amount due him. All members of a partnership firm must execute the instrument. Any creditor having reason to believe such debtor has concealed his property, may have him summoned before District or County Judge, and examined under oath, etc. Any attempted preference of one or more creditors shall be deemed fraudulent and without effect. Concealment by debtor of his property from assignee, or transfer of property previous to and in contemplation of assignment, with intent to defraud creditors, is made a felony. The assignee must within 30 days after his appointment give notice of same by publication in newspaper for three weeks, and, as far as he can, by personal notice, or by mail to each of the creditors of said debtor, and creditors consenting to the assignment must file their consent in writing with the assignee within four months after publication of notice of his appointment; and within six months from date of first publication of such notice must file with the assignee a statement of amount and nature of claim, with affidavit that it is true, that the debt is just and that there are no credits or offsets that should be allowed against the claim except as shown by the statement. Failure to comply with above precludes him from taking under the assignment. An insolvent debtor may, if he desires, instead of making a general assignment without preferences, make a trust deed with preferences, or otherwise pay or secure certain of his creditors.

Interest. Legal, six per cent; conventional up to ten per cent. Open accounts, no rate agreed upon, legal interest from January 1st thereafter. Judgments bear rate stipulated in contract sued upon, and six per cent. when none stipulated for. Usury forfeits all interest. Where usurious interest has been paid, double the amount may be recovered by suit within two years.

Judgment Lien. In Federal, District, County and Justice Courts a judgment is a lien on debtor's real estate in any county where an abstract of judgment shall be filed and recorded in a book kept for that purpose, in the office of County Court Clerk and properly indexed in the name of each plaintiff and defendant. Lien takes effect from date record and index of abstract, and continues for ten years, unless plaintiff fails to have execution issued within twelve months after judgment. A transfer of a judgment when acknowledged, as required for deeds, filed with the Clerk of Court in which recovered and by him noted in the minute book of the Court, is constructive notice to, and valid and binding on all persons subsequently dealing with reference to the cause of action or judgment.

Limitation to Suits. Written contracts, four years; accounts, other than open accounts between merchant and merchant, their factors and agents, two years. Mortgage lien barred with the debt, unless power of sale is given in mortgage, but new promise which revives debt, and which must be in writing, revives mortgage. Limitation must be pleaded.

Married Women can not bind themselves, nor their separate estate, by making, drawing, accepting, or indorsing negotiable instruments. Her separate estate is not liable for husband's debts; nor for her own contracts, except for expenses incurred for its benefit, or for necessities for herself and children. Property owned by wife before marriage, or acquired afterwards by gift, devise, or descent, remains her separate property. That acquired after marriage, except as above, or by sale or exchange of separate property, is community property, as is also the *increase* of any of the wife's separate property, as rents, crops, increase of cattle, interest on notes, etc. A married woman can not contract as a partner in business, nor embark her separate means in trade.

Notes and Bills of Exchange. Commercial paper is anything that is recognized as such by the law merchant, and it is not required that it shall be payable at a bank or any fixed place in the State. Unless otherwise provided in the paper, it will be considered payable at the residence of the maker or acceptor, or other person bound. The liability of any drawer or indorser may be fixed by instituting suit against the acceptor or maker, before first term of District or County Court, to which suit can be brought, or before second term, showing good cause why not brought at first term; within jurisdiction of Justice, suit must be brought within sixty days. Protest: Such liability may also be fixed by protest, according to the custom of merchants. The holder of a protested draft or bill, drawn by a merchant in this State, upon his agent or factor without the State, may recover ten per cent. damages thereon, besides interest and costs. Days of grace (three) allowed on all negotiable instruments, except paper payable on demand. Attorney's fees may be stipulated for in note and recovered in case of suit.

The legal holidays in Texas are: January 1, February 22, March 2, April 21, July 4, December 25; all days appointed by the President of the United States, or by the Governor of Texas, as days of fasting or thanksgiving; and every day on which an election is held throughout the State. All such days shall be considered as Sunday, for all purposes regarding the presenting, for payment or acceptance, of negotiable paper, and of protesting and giving notice of non-payment or non-acceptance. If any of the days named shall occur on Sunday, the next day thereafter shall be observed as a holiday; but negotiable paper may be presented for payment or acceptance on the Saturday preceding such holiday. Paper falling due on Sunday, or one of said holidays, must be presented for payment or acceptance on the Saturday preceding such holiday. When third day of grace falls on Sunday or a legal holiday, the paper is due on the preceding day.

Private Seals. Abolished February 2, 1858, except as to private corporations.

Protest. The holder of any bill of exchange or promissory note, assignable or negotiable by the law merchant, may also secure and fix the liability of any drawer or endorser of such bill of exchange or promissory note for the payment thereof, without suit against the acceptor, drawer, or maker, by procuring such bill or note to be regularly protested by a notary public for non-acceptance or non-payment, and giving notice of such protest to such drawer or indorser according to the usage and custom of merchants.

Suits, Where brought. A defendant may be sued in the county in which the contract sued on by its terms is to be performed, or in county of his residence, at option of plaintiff. Thus a note, payable at Dallas, may be sued on in Dallas County, though defendant reside in another county. This enables parties to concentrate their collections.

Taxes. Non-residents may pay State and county taxes to the Comptroller of the State, at Austin, on or before December 31st, next after assessment. Taxes are a lien upon land until paid. Taxes become delinquent, and forced collections of same begin on and after 1st day of January next succeeding the year for which they are assessed. Owner has two years within which to redeem land sold for taxes, by paying to purchaser double the amount paid for the land. All lands sold for taxes and bought in by the State may be redeemed by the owner by paying the amount of taxes for which sold, and all costs, with six per cent. interest thereon, and all taxes due since such sale, provided same be paid in one year from May 2, 1893, to date when the act of the Legislature took effect.

Wills. All adult persons of sound mind may dispose of their property, real and personal, as they choose. A will must be signed by the testator himself, or in his presence, by his direction, and, unless wholly written by himself, signed by two witnesses in his presence. Application for the probate of a will must be made to the County Court of the proper county within four years from the date of the death of the person making it. Notice of application must be given ten days before term of court. A will may be proved by the affidavit in writing, taken in open court, of one of the subscribing witnesses. If all the witnesses are non-residents of the county, or are unable to attend the court, the will may be proved by the testimony of one or more of such witnesses, taken by deposition. If none of the witnesses are living, the will may be proved by the testimony of two witnesses to the handwriting of the subscribing witnesses, and also of the testator, if he was able to write, which proof may be either by affidavit in open court, or by deposition. Suit to contest will must be brought within four years from the time it is admitted to probate; *provided*, infants, etc., have a like time after removal of disability. A will which has been probated in another State or country can be probated here. A duly certified copy of such will may be filed and recorded, and have the same effect as the original will, if probated here. But there must be a regular application for probate, and the same may be contested in the same manner as the original might have been. Real estate can not be devised by a nuncupative will.

UTAH.

BANKING LAW.

(Revised by BENNETT, MARSHALL & BRADLEY, Attorneys at Law, Salt Lake City.)

SECTION 1. *Be it enacted by the Governor and Legislative Assembly of the Territory of Utah:* That any number of persons not less than six, two-thirds of whom shall be residents of this

Territory, being subscribers to the stock of any contemplated bank or savings institution, may be formed into a corporation for the purpose of owning and maintaining such bank or savings institution.

SEC. 2. That whenever stock to the amount of at least one hundred thousand dollars shall have been subscribed, and twenty-five per cent. in cash paid thereon to the treasurer appointed by said subscribers from among their number, then such subscribers, either in person or by written proxy, after having received not less than four days' notice from said treasurer of a meeting for that purpose, may meet and adopt articles of association, and may elect from among their number not less than five directors, *Provided*, that in cities or towns having a population of more than ten thousand inhabitants and less than twenty thousand, corporations may be formed with a capital stock of at least fifty thousand dollars, and in cities or towns having a population of less than ten thousand inhabitants, corporations may be formed with a capital stock of at least twenty-five thousand dollars.

SEC. 3. Said articles of association shall set forth: 1, The fact that the articles are entered into and the agreement subscribed, to enable such persons to avail themselves of the privileges of this law; 2, The amount of capital stock and the number of shares into which the same is to be divided; 3, The names and places of residence of the shareholders, and the number of shares held by each of them; 4, The number and kind of officers to manage the affairs of the company, and the names of those for the first year.

SEC. 4. Each stockholder shall personally subscribe to such articles of association his name, place of residence, and the number of shares of stock taken by him in such company; *Provided*, in case a person having duly paid the twenty-five per cent. required upon subscription, said articles may be signed by written proxy or power of attorney to that effect, and there shall be indorsed and attached to said articles so subscribed, an affidavit made by any three or more of the subscribers named therein, before a judge of some court of record, or notary public, setting forth in substance the amount of stock which has been subscribed, and that twenty-five per cent. in cash has been paid thereon as aforesaid, and that the subscribers to said articles are personally known to them, and that they believe such subscribers are able to and will pay the amount by them subscribed.

SEC. 5. The articles of association formed in pursuance of the foregoing sections shall be filed in the office of the Clerk of the Probate Court (or in the office of the Clerk of the District Court), who shall issue, under the seal of said court, a certificate to the effect that the articles of association have been filed in his office, which certificate, together with a copy of the articles, must be filed in the office of the Secretary of the Territory, who shall issue under the great seal of the Territory, a certificate of incorporation, and thereupon the persons who have subscribed said articles and all persons who may from time to time become stockholders in said company, shall be a body politic and corporate, by the name stated in its articles of association, and said corporation shall have power: 1, To adopt and use a corporate seal; 2, To have succession for a period of fifty years from its organization, unless it is sooner dissolved according to the provisions of its articles of association, or by act of its shareholders owning two-thirds of its stock, or unless its franchise becomes forfeited by some violation of law; 3, To make contracts; 4, To sue and be sued, complain and defend in any court of law and equity as fully as natural persons; 5, To elect by its stockholders, directors from time to time, and by its board of directors to appoint a president, a vice-president, cashier, and such other officers as shall be provided for in its articles of association, define their duties, require bonds of them, and fix the penalty thereof, dismiss such officers or any of them at pleasure, and appoint others to fill their places; 6, To prescribe, by its board of directors, by-laws, not inconsistent with law regulating the manner in which its stock shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its general business conducted and the privileges granted to it by law exercised and enjoyed; 7, To exercise by its board of directors or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking by discounting or negotiating promissory notes, drafts, bills of exchange and other evidences of debt, by receiving deposits, by buying and selling exchange, coin and bullion, and by loaning on personal or real security.

SEC. 6. Banking associations formed under this law shall also have power to hold and convey real estate for the following purposes, to-wit: 1, Such as shall be necessary for its accommodation in the transaction of its business; 2, Such as shall be mortgaged in good faith by way of security for debts duly contracted; 3, Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings; 4, Such as it shall purchase at sales under judgments, decrees or mortgages held by the association, or shall purchase to secure debts due to it.

SEC. 7. No association shall be organized under this law with a capital stock of less than twenty-five thousand dollars and as is provided in Section 2 of this act.

SEC. 8. The capital stock of the association shall be divided into shares of not to exceed one hundred dollars each, nor less than fifty dollars, and shall be deemed to be personal property, and shall be transferred on the books of the association in such manner as may be prescribed by the by-laws and articles of the association.

SEC. 9. Every person becoming a shareholder by such transfer, shall, in proportion to his share, succeed to all the rights and liabilities of the previous holder of said shares, and no change shall be made in the articles of the association by which the rights, remedies or securities of existing creditors of the association shall be impaired.

SEC. 10. At least twenty-five per cent. of the capital stock of every association formed under this law shall be paid in cash before it shall be authorized to commence business, and thereafter the remainder due thereon in installments of not less than ten per cent. monthly until the full amount of the capital so subscribed shall have been paid; *Provided*, whenever any shareholder, or his assignee fails to pay any installment of stock when the same is required as provided above, the directors of such association may sell so much of the stock of such delinquent shareholder as may be necessary, at public auction, after giving two weeks previous notice thereof, in a newspaper published or of general circulation in the county where the association is located, or if no newspaper is published in the city or county, then in a newspaper published nearest thereto, to

any person who will pay the highest price therefor, to be not less than the amount then due thereon with the expenses of advertising and sale, and the excess, if any, shall be paid to the delinquent shareholder. If no person can be found who will buy such stock at the amount due thereon to such association, and the costs of advertising the sale, then the amount previously paid shall be forfeited to the association, and such stock shall be sold as the directors may order, within six months from the day of said forfeiture, and if not sold, shall be deducted from the capital stock of the association.

SEC. 11. Any association formed under this law may, by its articles of association, provide for an increase of its capital from time to time as it may be deemed expedient, but in no case shall the capital stock of such association be increased to exceed one million dollars, and no increase shall be valid until at least twenty-five per centum thereof shall be paid in and the balance shall be paid in the same manner as is provided in Section 10 of this act.

SEC. 12. Any association formed under this law may reduce its capital by vote of its shareholders owning two-thirds of its capital stock to any sum not below the amount required, authorizing the formation of the corporation; *Provided*, the capital shall never be reduced so as to in any way impair the security of its existing creditors.

SEC. 13. At any meeting of the shareholders each shareholder shall be entitled to one vote for each share of stock held by him. Shareholders may vote by proxy duly authorized in writing.

SEC. 14. The officers named in the articles of association of any company formed as provided for herein, shall hold office for a period of one year, and until their successors are duly elected and qualified in a manner provided by its articles of association, and every officer of the corporation must own in his own name at least five shares of the capital stock of the association of which he is an officer.

SEC. 15. Any officer who ceases to be the owner of five shares of stock, or who becomes in any manner disqualified, shall thereby vacate his office.

SEC. 16. A certified copy of the certificate of incorporation under the hand and seal of the officer with whom the articles of association are filed as aforesaid, shall in all courts be deemed *prima facie* evidence of the legal existence of such corporation.

SEC. 17. Any vacancy of the board shall be filled by appointment by the remaining directors, and any director so appointed shall hold his place until the next election.

SEC. 18. If from any cause an election for directors is not made at the time appointed, the association shall not for that cause be dissolved; but an election may be held on any subsequent day, thirty days' notice thereof having been first given in some newspaper published in the city, town or county in which the association is located, or if no newspaper is published in such city, town or county, such notice shall be published in the newspaper published nearest thereto.

SEC. 19. If the articles of association fail to fix the day on which the election for directors shall be had, or if no election is held on the day fixed, the day for election shall be designated by the board of directors in their by-laws or otherwise; or if the directors fail to fix a day, shareholders representing two-thirds of the capital stock may do so.

SEC. 20. The shareholders of every banking or savings association organized under this law shall be held individually responsible, equally and ratably, and not one for another, for all contracts, debts and engagements of such association made or entered into to the extent of the amount of his stock therein at the par value thereof in addition to the amount invested in and due on such shares.

SEC. 21. Every banking association formed under this law shall make and publish a statement of its resources and liabilities at least every quarter in each year (at such times as the bank examiner hereinafter provided for shall call upon it for the same; *Provided*, that said examiner shall call for said statements upon a date at least five days previous to the date upon which said examiner shall issue said call) in some newspaper having a general circulation in the county where such bank is located, and a list of its stockholders shall be open to inspection by all persons doing business with the bank.

SEC. 22. No officer of any bank or savings institution organized under this law, shall borrow money from such bank or savings institution to exceed the sum of ten thousand dollars, and no sum of money shall be loaned to any officer of said institution, unless he furnishes security in at least double the amount of the loan made, and no loan by any officer of said institution shall be made for a period of over three months, and the stock of the association shall not be taken as security for any loan; nor shall any officer of such banking association become an endorser or security for loans to others. The office of any director or officer who acts in contravention to the provisions of this section, immediately thereupon becomes vacant; and any loan he shall have made in contravention of the provisions of this section shall be immediately due and payable, and the bank shall take immediate steps to collect the same.

SEC. 23. The directors may, from time to time, make such dividends on their capital stock as they may deem prudent; *Provided*, they shall make no dividend on the capital stock, except profits actually earned and on hand.

SEC. 24. Married women and minors may, in their own right, make and draw deposits and draw dividends, and give valid receipts therefor.

SEC. 25. The Secretary of Utah Territory, until otherwise provided, shall be ex-officio Bank Examiner. He shall, as often as once, and not to exceed twice a year, either in person or by agent duly appointed by him, examine every bank organized under this law, and he or his agent, in case he appoints one, shall have power to make a thorough examination into all the affairs of the association, and in so doing, may examine any of the officers and agents thereof on oath, and shall make a full and detailed report in writing of the condition of the association, which shall be filed in the office of said Examiner, and which shall be opened for the inspection of all persons doing business with the bank. Such examiner, or his agent, shall receive for his services the sum of ten dollars per day, and two dollars for every twenty-five miles he shall necessarily travel in the performance of his duty, which shall be paid by the association by him examined. No person shall be appointed to be such agent for said Examiner to examine the affairs of any banking association of which he is a director, officer or stockholder.

SEC. 26. This act shall take effect from and after the date of the passage and approval thereof; *Provided*, that the same may be altered, changed, amended or repealed at any time hereafter.

Approved March 8, 1888.

COMMERCIAL LAW.

Acknowledgments. (See Deeds.)

Arrest. Defendant in a civil action may be arrested on an order from the Judge of the Court in which the action is brought, in the following cases: *First.* In an action for the recovery of money or damages on a contract express or implied, when the defendant is about to depart from the Territory with intent to defraud his creditors, or when the action is for willful injury to person, to character, or to property, knowing the property to belong to another. *Second.* In an action for a fine or penalty, or for a breach of promise to marry, or for money or property embezzled or fraudulently misapplied, or converted to his own use by a public officer in the course of his employment as such, or by any other person in a fiduciary capacity, or for misconduct or neglect in office, or in a professional employment, or for a willful violation of duty. *Third.* In an action to recover the possession of personal property unjustly detained when the property or part thereof has been concealed, removed or disposed of so that it can not be found or taken. *Fourth.* When the defendant has been guilty of a fraud in contracting the debt for which the action is brought, or in concealing or disposing of the property for the taking, detention or conversion of which the action is brought. *Fifth.* When the defendant has removed or disposed of his property, or is about to do so, with the intent to defraud his creditors. Plaintiff must furnish undertaking with sufficient sureties in at least \$500. Defendant may be admitted to bail.

Assignments and Insolvency. *Partnership*—Assignment of any partner in trade, made to secure or satisfy a creditor of such firm, shall be deemed valid in law. This act shall not be construed to authorize assignment of any effects of such firm to satisfy the individual claim of any of the parties, or other than such debts as are incurred for the effects, or proceeds thereof, thus assigned. Common law assignments are recognized with preferences. There is no statutory insolvent law, nor for the making of assignments.

Attachment may issue on any day in an action upon a contract or judgment which is not secured by mortgage, lien, or pledge, upon real or personal property situated in this Territory, or if so secured, after the security has, without any act of the plaintiff or the person to whom the security was given, become valueless, against a non-resident defendant, or against a defendant who has departed or is about to depart from the Territory to the injury of his creditors, or who stands in defiance of an officer or conceals himself so that process can not be served on him, or has disposed of or is about to dispose of his property with intent to defraud his creditors, or who has fraudulently contracted the debt or incurred the obligation respecting which the action is brought. Process issued by Clerk on receipt of affidavit made by or on behalf of plaintiff, and on the filing of an undertaking on the part of the plaintiff with sufficient sureties in a sum not less than \$200.

Bills of Lading. No statutory provisions.

Corporations. Private corporations may be formed for almost any purpose. They are organized by any number of persons not less than five, one-third of whom are required to be residents of the Territory, by making and signing a written agreement, acknowledged by at least three of them, before the probate judge, giving the names, places of residence in full, the name of the association, the time of its duration, which shall not be less than three nor more than fifty years, the pursuit or business agreed upon, the place of its general business, the amount of stock each party has subscribed, the amount of each share, and the limit of the capital stock agreed upon; the number and kind of officers, with their qualifications and term of office, and the time and manner of their election, removal, and resignation; also how many of the entire board of directors or trustees shall be necessary to form a quorum and be authorized to transact the business and exercise the corporate powers, and whether the private property of the stockholders shall be liable for its obligations or not, with such additional provisions as may be thought necessary. The officers of the corporation are required to give bonds to the approval of the probate judge that they will discharge the duties of the office to the best of their judgment, and will not do nor consent to the doing of anything with intent to defraud any stockholder or creditor or the public. The corporate powers are to be exercised by a board of directors or trustees of not less than three nor more than twenty-five persons, who shall be stockholders, and one-third of whom shall be residents of the Territory. Any person who is the holder of fully paid-up stock shall not be liable for any assessments or any indebtedness of the corporation otherwise than by a sale of their stock according to statutory provisions, unless distinctly provided for in the articles of incorporation. Foreign corporations are required within sixty days of doing business to file with the Secretary of the Territory and with the Probate Judge of the county wherein their principal office in this Territory is, certified copies of their articles and certificate of incorporation and by-laws, and within thirty days after their adoption certified copies of any amendments thereto; also to designate within sixty days after commencing business, some person residing in the county in which its principal place of business in this Territory is situated, upon whom process may be served, and file such designation with the Secretary of the Territory and with the Probate Judge of such county. A failure to comply with these provisions takes from any such corporation the benefits of the laws of this Territory limiting the time for the commencement of civil actions.

Courts. Terms and Jurisdiction. Supreme Court of the Territory having general appellate jurisdiction. District Courts having general common law and chancery jurisdiction in all cases, said jurisdiction being exclusive in all equity cases and in all law cases involving \$300 or more, or in which the title to real estate is at issue. The District Courts hold four terms each year in Beaver City, two in Provo City, four in Salt Lake City, and two in Ogden.

Each county has a Probate Court with the usual probate jurisdiction. Justices' jurisdiction, any sum less than \$300.

Deeds. Conveyance of real estate must be by deed, attested by at least one witness and acknowledged, to entitle same to be recorded. If acknowledged according to law, a deed or writing affecting real estate may be read as evidence without further proof.

Acknowledgments may be made within the Territory before a judge or clerk of the court having a seal, a notary public, county recorder, or before a justice of the peace of the county where the conveyance is executed and to be recorded. Elsewhere in the United States before a judge or clerk of any court having a seal, a notary public or a commissioner of deeds for Utah. Out of the United States before a judge or clerk of the court as aforesaid, a notary public, or any minister, commissioner or counsel of the United States appointed to reside in the country where the acknowledgment is taken.

Such certificate, when properly executed by the officer authorized to take acknowledgments to instruments in writing affecting the title to real estate and attached to a conveyance, shall be sufficient acknowledgment, proof and certificate that such conveyance was executed as required by law. It is not necessary to use a private seal on any instrument in writing in this Territory.

Depositions. The testimony of witnesses may be taken within the Territory by deposition after service of summons or appearance in an action, or after issue of fact has arisen in special proceedings in the following cases: 1. When the witness is a party or a person for whose immediate benefit the action or proceedings is prosecuted or defended. 2. When the witness resides out of the district, when the action is pending in the District Court, and out of the county in other cases, in which his testimony is to be used. 3. When he is about to leave the district or county where the action is to be tried, and will probably continue absent when the testimony is required. 4. When the witness is too infirm to attend the trial. 5. When the testimony is required on a motion, or in any other cases where the oral examination of the witness is required.

Depositions within the Territory may be taken before any judge or officer authorized to administer oaths, on serving upon the adverse party previous notice of the time and place of examination, with a copy of the affidavit showing a proper case in which to take depositions. The notice must be at least five days, adding, also, one day for every twenty-five miles distance between the residence of the person notified and the place of the examination, unless by order the judge prescribe a shorter time, in which case a copy of the order must be served with the notice. The testimony of a witness out of the Territory may be taken in an action at any time after the service of the summons or appearance of the defendant, on a commission issued from the court, under seal, upon an order of the judge or court, or probate court or justice of the peace, under his hand, on application of either party on five days' notice. If issued to any place within the U. S. it may be issued to any person agreed upon, or, if no person be agreed upon, to any judge or notary public or person named or commissioned by the officers issuing it.

Depositions are principally taken on stipulation by the attorneys of the parties on written interrogatories and cross interrogatories, before some notary public or other officer, waiving notice, commission and objections as to form of questions, such stipulation and copy being sent in with the interrogatories, direct and cross.

Executions may issue at any time within five years after judgment. Property sold under execution may be redeemed within six months after sale on payment of the amount paid therefor, with six per cent. thereon and all charges, etc.

Exemptions. Homestead, not exceeding \$1,000, to head of family, and the further sum of \$500 for his wife, and \$250 additional for each other member of the family. Also necessary household furniture, of value of \$300, tools of trade, farming implements, certain domestic animals, and provisions for three months, one sewing machine, and the instruments and libraries of professional men, all wearing apparel, and bedding and beds.

Interest. Legal rate is eight per cent. Parties may agree, in writing, on any rate. No usury laws.

Judgment rendered in District Court becomes a lien on all the real property of debtor within the judicial district from time of docketing, and so continues for five years therefrom. Lien may be extended to counties of other districts by filing transcript of judgment with County Recorder of such counties.

Limitation of Actions. Within two years, an action upon a contract, obligation or liability not founded upon an instrument of writing; also, on an open account for goods, wares and merchandise, and for any article charged in a store account, and after the last charge is made or the last payment is received. Within four years, contracts or obligations founded in writing. Within five years, judgment or decree of any court of the United States, State, or Territory.

Married Women retain all their property, both that owned at the time of marriage and that acquired thereafter, as their separate estate, free from any right or control of the husband, and not subject to his debts. Married women can contract with reference to their separate property and control the same as if they were *femmes sole*. The surviving wife is endowed of a third part of the lands whereof the deceased husband was seized of an estate of inheritance at any time during the marriage, unless relinquished in due form.

Mortgages of real estate must be acknowledged as deeds, and must be foreclosed by proceedings in equity. Every mortgage of personal property is void as against creditors or subsequent purchasers unless accompanied by an actual and continued change of possession to the mortgagee, or unless the mortgage provide that the property may remain in possession of mortgagor, and be accompanied by affidavit of the parties that the same is made in good faith to secure the amount named therein, and without any design to hinder or delay creditors. Mortgage of personal property must be witnessed and acknowledged in the same manner as mortgage of realty, and, together with the affidavit and acknowledgment,

Original from

UNIVERSITY OF WASHINGTON

must be filed for record in the office of the Recorder of county where mortgagor resides. The lien of the mortgage exists for a period of three months after maturity of debt, provided that the entire duration of the lien shall not exceed fifteen months.

Notes and Bills of Exchange are governed by the statutes of the Territory. Notice of dishonor may be given by the holder or any party to the instrument who may be called on to pay it, and must be in writing. Days of grace are not allowed. Every Sunday, the 1st of January, 22d of February, 1st Saturday in April (Arbor Day), 30th of May, 4th of July, 24th of July, 1st Monday in September (Labor Day), 25th of December, and Thanksgiving and Fast days, are legal holidays. The apparent maturity of a negotiable instrument payable at a particular time, is the day on which by its terms it becomes due, or when that is a holiday the next preceding business days except when such preceding day is also a holiday, in which event it becomes due on the next succeeding business day. The apparent maturity of a bill payable at sight or on demand is, first, if it bear interest one year after its date; or second, if it does not bear interest ten days after date in addition to time necessary to forward it for acceptance. The apparent maturity of a promissory note payable at sight or on demand is, first, if it bears interest one year after its date; or second, if it does not bear interest six months after date. When a note is payable a certain time after sight or demand, such time is to be added to the periods above mentioned. Damages instead of interest to time of dishonor are allowed on dishonored bills drawn or negotiated within this Territory as follows: One dollar upon each \$100 specified in the bill, if drawn on person within this Territory; if drawn on any person without this Territory but within the United States, two and one-half dollars upon each \$100 of said principal sum; if drawn on any person in any place in a foreign country, five dollars upon each \$100 of said principal sum.

Penal Code. Every officer, agent, teller, or clerk of any savings bank, who knowingly overdraws his account with such bank, and thereby wrongfully obtains the money, note, or funds of such bank, is guilty of a misdemeanor.

Every officer, agent, teller, or clerk of any bank, and every individual banker, or agent, teller, or clerk of any individual banker, who receives any deposits knowing that said bank, or association, or banker is insolvent, is guilty of a misdemeanor. To actions brought to recover money or other property deposited with any bank, banker, trust company, or savings or loan society, there is no limitation.

Every banker or person otherwise entrusted with, or having in his control, property for the use of any other person, who fraudulently appropriates it to any use or purpose not in the due and lawful execution of his trust, or secretes it with a fraudulent intent to appropriate it to such use or purpose, is guilty of embezzlement.

Suits. There is but one form of civil action, and all suits must be prosecuted in the name of the real party at interest. Service on non-residents may be had by publication in proceedings *in rem*.

Taxes. There is levied and directed to be collected an annual ad valorem tax on all taxable property in the Territory, as follows: Two mills on the dollar for territorial purposes; three mills for district school purposes; such sums as the county courts of the several counties may designate for district school purposes, not to exceed two mills on the dollar, and such sums as the county courts of the several counties may designate for county purposes, not to exceed three mills on the dollar. Debts are deducted from taxable credits. All property for purpose of territorial and county taxation is assessed and owned and valued on the first Monday in March in each year. Taxes attach to and constitute a lien on the property assessed, if real estate, from August 31st, and if personal property from the day of assessment. Real estate mortgages and trust deeds are not taxable in this Territory. All territorial school and county taxes become due on the first of September annually and become delinquent on the 31st day of October. The County Collector is required to publish, on or before the first day of December in each year, for a period of ten days, in a newspaper of general circulation in the county, a delinquent tax list, and on the third Monday in December he shall expose for sale, in front of the county court house, sufficient real property of each of such delinquents, and sell the same to the highest bidder for cash, and continue to sell from day to day until such property is exhausted or the taxes have been paid with costs. The property of non-residents can not be sold for taxes without publishing notice of sale at least five times in some newspaper published in the Territory, commencing twenty days at least previous to the sale.

Trust Deeds. In the usual form with power of sale in trustee, and no redemption to the debtor. They are executed in the same manner as a mortgage, and may be released by the trustee in the same manner.

Wills. Any person over the age of 18, of sound mind, may dispose of his or her property, personal and real, by will. A will must be in writing subscribed by the testator at the end thereof, in the presence of two witnesses, and the testator must, at the time of subscribing, declare to the witnesses that the instrument is his will, and must be attested by two witnesses, each of whom must sign his name as a witness at the end of the will at the testator's request in his presence, and in the presence of each other.

By express enactment of statute the word "writing" includes printing, and it is probable that typewriting would also be included. All wills executed according to the law of the State or country where made, or where testator was at the time domiciled, or in conformity to the laws of Utah, may be admitted to probate hereafter, being duly proved and allowed in any other State, Territory, or foreign State or country. Nuncupative wills are good, provided the estate bequeathed does not exceed in value the sum of \$1,000, and provided the will be proved within six months after decedent's death by two witnesses who were present, one of whom was asked by testator to bear witness that such was his will, or to that effect. Such wills are only good in cases where testator was in expectation of immediate death from an injury or casualty happening within twenty-four hours previous to the making of the will. An holographic will, defined as one that is entirely written, dated and signed by the hand of the testator himself, need not be witnessed, and may be proved in the same way as other private writings.

VERMONT.

BANKING LAW.

(Revised by HENRY BALLARD, Attorney at Law, Burlington.)

Any number of persons, not less than five, at least three-quarters of whom shall be residents of the State, may associate to establish banks of discount, deposit and circulation. The aggregate amount of the capital stock must not be less than \$50,000, nor more than \$500,000. No association can commence the business of banking until its entire capital stock is paid in. Examinations of the condition of a bank may be had by order of a Chancellor, upon application of creditors or shareholders whose debts amount to \$1,000, stating the cause, verified by affidavit. The treasurer of every Savings institution and trust company is required, on or before the 10th of July of each year, to report to the Inspector of Finance, showing accurately its condition at the close of business on the 30th of June. This report is to include the name of the institution, place of business, amount of deposits, number of depositors, and all other particulars relative to the condition of the institution.

Savings banks, saving institutions and trust companies can only invest their funds in the public funds of the United States, or public funds for which the faith of the United States is pledged to provide for the payment of; and in the public funds of the New England States, Ohio and New York, including bonds or notes of counties, cities, towns, villages, and school districts of the same; and in the stock of any National bank in the New England States and in New York, or banking association or trust company located in and incorporated under the laws of Vermont; and in the municipal bonds of cities and counties of 10,000 inhabitants or more in the States of New Jersey, Pennsylvania, Indiana, Illinois, Wisconsin, Minnesota, Iowa and Missouri; also in cities and counties of 15,000 inhabitants or more in the States of Nebraska and Kansas.

COMMERCIAL LAW.

Acknowledgments. All deeds must be signed and sealed in the presence of two witnesses. They may be acknowledged in this State before a Justice of the Peace, Notary Public or Master in Chancery. Outside the State, before a Justice, Notary Public or Commissioner for Vermont, or any other officer authorized by the laws of such other State to take acknowledgments of deeds.

Assignments and Insolvency. There is an insolvent law, but its provisions are of no effect as regards non-resident creditors. The Probate Courts have jurisdiction in insolvency. All assignments must be for the benefit of all creditors. Non-resident creditors can prove their claims and take their dividends; but the discharge has no effect upon a non-resident creditor who does not prove his claim.

Attachments may issue on mesne process, and trustee process will reach goods, effects or credits of defendant in the hands of a third party when the judgment, exclusive of costs, against defendant and the amount in the hands of trustee each exceed \$10. Defendant in a civil action may be arrested when about to leave the State with intent to defraud.

Courts. Terms and Jurisdiction. Justices' Courts have jurisdiction of all actions of a civil nature, except actions for slanderous words, false imprisonment, replevin for goods and chattels where the value thereof exceeds \$20, and where the title to land is concerned—where the matter in demand does not exceed \$200; and of actions of trespass on the freehold where the sum in demand does not exceed \$20. County Courts have jurisdiction of all actions for the collection of debts exceeding \$200.

Executions are issued from County Courts at the close of term, and from Justices' Courts immediately after judgment rendered, and are returnable in sixty days. Can only be stayed by order of court. Six months allowed for redemption of real estate levied upon. The land may be sold, or, if the debtor so directs, it may be set off at a certain value, and becomes plaintiff's if not redeemed in six months.

Exemptions. Homestead, \$500; necessary wearing apparel, household furniture and tools, one cow, one swine or meat of one swine, ten sheep, either one yoke of oxen or two horses (horses not to exceed in value the sum of \$200), as the debtor may select, with forage for one winter, one sleigh, two sets of harness, two halters and some other small articles. Ten cords of firewood or five tons of coal, twenty bushels of potatoes, the arms used by a soldier in the service of the United States, growing crops, ten bushels of grain, one barrel of flour, two swarms of bees and their produce in honey; live poultry, not exceeding in value the sum of \$10; one two-horse wagon or ox cart, as the debtor may select, with whiffletrees and neck-yoke, two chains, one plow. Also a sewing machine, and instruments and libraries of professional men to the value of \$200.

Interest. The legal rate is six per cent. per annum. Judgments bear legal rate. Only the excess paid is forfeited, and that may be recovered back or set up in reduction of claim, if such action is brought or defense made within six years after payment of the usury.

Judgments do not of themselves create a lien on property not attached upon mesne process.

Limitations of Suits. Simple promissory notes are barred in six years, but notes signed in presence of an attesting witness are not barred until fourteen years next after the right of action shall accrue thereon. Accounts are barred after six years from the last credit; sealed instruments and judgments, after eight years. A

verbal promise to pay will not revive a debt, but must be in writing. A partial payment will revive the debt; but, in case of a note, the payment can not be shown by the indorsement of the payment alone unless in the handwriting of the party making the payment.

Married Women hold their own property separate from that of their husbands, and are not liable for their debts, except for debts contracted while doing business for themselves and in their own name, and a married woman doing business herself and in her own name, may sue and be sued without her husband being joined with her. The husband must join in the conveyance of his wife's real estate. A married woman may make a will and thereby devise her real and personal property. Widow takes dower in one-third of all real estate of which her husband died seized.

Mortgages are foreclosed by process of law, and the premises may be redeemed within one year of the date of decree of foreclosure. Conditional sales are not valid as against *bona fide* purchasers or subsequent attaching creditors without change of possession of the property, except they are in writing and put on record, and except in the case of machinery in use. In the latter case the instrument must be executed, acknowledged and recorded in the same manner as mortgages of real estate, and must be foreclosed, assigned and discharged in the same way. By an act passed in 1878, mortgages of personal property, properly recorded in the Town Clerk's office of the town where the mortgagor resides, are valid, and hold the property without change of possession; a provision for sale of the property after condition has been broken thirty days is made, and sales are by public auction.

Notes and Bills of Exchange are not entitled to three days grace. Days of grace were abolished by act of the Legislature, 1892. Negotiable paper need not be made payable at any particular bank or place. Notes payable on demand are considered overdue after sixty days from date. Whenever any bill or note, or other contract, shall fall due on Sunday, the 1st day of January, the 22d day of February, 4th day of July, 25th day of December, or the 30th day of May, called Decoration Day, or any day appointed by the Governor or President as a day of fast or thanksgiving, the same shall, for every purpose of protest and notice, be taken and considered as due on the next following business day.

Suits before the County Court are brought in the county where plaintiff or defendant resides—if both are non-resident, then in any county. Actions of ejectment and trespass on the freehold must be brought in the county where the land lies, and actions of replevin where the goods are detained.

Taxes. Lands sold for taxes may be redeemed within one year on payment of the full sum for which they were sold, with legal costs and twelve per cent. interest.

VIRGINIA.

BANKING LAW.

(Revised by B. RAND WELLFORD, Attorney at Law, Richmond.)

The Circuit and Corporation Courts have power to charter any bank except a bank of circulation. The judges of these courts have the same power in the vacation of their courts. Such charters become effective only from the time they are lodged in the office of the Secretary of Commonwealth.

Every such bank has power to prescribe by its Board of Directors by-laws regulating the manner in which its stock shall be transferred, its general business conducted, and the privileges granted to it by law exercised and enjoyed.

The affairs of such bank shall be managed by a Board of Directors, consisting of not less than five persons, a majority of whom shall be citizens of the State, and each director is required to own at least \$100 of the capital stock of the bank of which he is director. The Board of Directors shall meet at least once a month. The directors shall be elected at the annual meeting of the stockholders. Any vacancy in the Board of Directors shall be filled by appointment by the remaining directors, and any director so appointed shall hold his place until the next election of directors. They are to elect from their number the president. The directors are required to make once in every three months an examination of the moneys of the bank, and a settlement of the accounts of the cashier. A statement of such examination and settlement shall be recorded with the proceedings of the board.

Every such bank may purchase, hold, and convey real estate for the following purposes, and no other:

1st. Such as may be necessary for its immediate accommodation in the transaction of its business.

2d. Such as may be mortgaged or encumbered to secure, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings; or such as it may purchase at sales, under order of court, or deed of trust held by it, or to secure debts due to it; but no such property, purchased or acquired under this head, shall be held for a longer period than five years.

No dividend, higher than 6 per cent on the capital stock paid in, shall be declared by any bank until the bank has a surplus of 5 per cent of its capital, nor shall any dividend be declared by which such surplus fund is reduced below the said 5 per cent.

Every such bank must make statements to the Auditor of Public Accounts, identically as the National banks are required to make to the Comptroller of the Currency, and must publish such statements in a condensed form, as published by said National banks, and the Auditor is required to call for such statements, whenever the Comptroller of the Currency calls on the National banks for such statements; and upon written application, by stockholders representing one-fifth of capital stock of the bank, the Auditor may appoint some one to make a special examination in person. There may, at any time, be an inspection of the books and examination into the proceedings of any bank by a joint committee of the two houses of

the General Assembly, or a committee of each house, or one or more commissioners appointed by the General Assembly or by the Governor.

The Legislature reserves the right to repeal, alter or modify the charter of any bank at its pleasure.

Stockholders are only liable for the par value of the stock actually subscribed for.

There are no laws restricting savings banks as to the class of bonds and securities in which their funds may be invested.

COMMERCIAL LAW.

Assignments and Insolvency. Since the repeal of the bankrupt law assignments may be made by individuals in trust for any special number of creditors, or for all the creditors; but corporations and limited partnerships are not allowed to make preferences, unless they are for debts contracted at the time the lien is given.

Arrests. In aid of remedy in civil action arrest does not lie, but *caipias* can be taken out against debtors about to quit the State.

Attachments. At the time or after an action is brought to recover specific personal property, a debt, or damages for breach of contract, express or implied, or damages for a wrong, and the defendant is a non-resident of the State, or where he is removing his effects out of the State, or is conveying or assigning his property with intent to hinder, delay, or defraud his creditors, an attachment may issue to seize the property of the defendant. Whether claim be payable or not, an attachment may be sued out against debtor removing, or about to remove, his effects out of the State; also in certain cases for rent, and in certain others against vessels, boats, river craft, etc.

Executions may issue at any time within one year, and *scire facias*, or action to revive judgments within ten. When an execution has issued within the year, other executions may be issued, or a *scire facias*, or an action may be brought within ten years from the return day of an execution on which there is no return by an officer, or within twenty years from the return day of an execution on which there is such return, except that against the personal representative of a decedent it must be sued out within five years after qualification as such.

Exemptions. Bible, family pictures, and books to value of \$100; pew in church, burial lot, beds and bedding for family, and also various articles of housekeeping, and sewing-machine; mechanic's tools to value of \$100; seaman's or fisherman's boat to the value of \$200; farmer, one yoke of oxen or pair of mules and farming utensils. A householder, the head of a family, is entitled to have, in addition, real and personal property exempt from sale under execution to the value of \$2,000, excepting for a debt incurred for the purchase of such real or personal property, rent, services rendered by a laboring person or mechanic, liabilities incurred by any public officer or officer of court, or any fiduciary or attorney for money collected, and taxes, for the legal or taxable fees of any public officer or officer of a court, or for any debt or liability on contract as to which the debtor has waived his homestead exemption. And in case of householder or head of a family, all wages not exceeding \$50 a month are exempt. The homestead claimed to be exempt must be described in a writing signed by the householder and duly admitted to record in the county or corporation wherein the property claimed is located.

Garnishment. By garnishment any money due the defendant may be collected and the proceeds applied by the Court to payment of judgment against the defendant.

Insolvency. There is no insolvency law in this State.

Interest. Six per cent. per annum; all contracts for more are void except as to principal sum.

Judgments are liens on real estate possessed by debtor at or after the date of judgment, or if judgment be rendered in term in a case docketed at the beginning of the term at or after the first day of the term. They are liens as against purchasers without notice, if docketed within twenty days from their date, or fifteen days before conveyance made. Where the liens of two or more judgments commence the same day the creditors share ratably.

Justice Courts have jurisdiction to extent of \$100; but any action, if for over \$20, may be removed to the County or Corporation Court, upon affidavit by defendant that he has a substantial defense, and appeals are allowed to said courts in all amounts exceeding \$10 upon security being given. After judgment, if between \$10 and \$20, execution may be stayed forty days; if between \$20 and \$30, for sixty days; and if over \$30, for ninety days, security in all cases being required.

Limitations of Suits. Upon an indemnifying bond, or bond of executor, administrator, guardian, curator, committee, sheriff or sergeant, deputy sheriff or sergeant, clerk or deputy clerk, or any other fiduciary or public officer or contract under seal, suit must be brought within ten years; on an award or contract in writing signed by the party to be charged thereby within five years; on a retail store account, within two years; on any other contract within three years. If the creditor is an infant, a married woman, or insane, the period of such limitation is additional, excepting that in all cases the action must be brought within twenty years. All real actions must be brought within fifteen years east of the Alleghany Mountains, and within ten years west of same. No new promise will take an obligation out of these periods unless in writing.

Married Women. The real and personal property of any female married after April 4, 1877, owned at the time of her marriage, and the rents, issues and profits thereof, and any property, real or personal, acquired by a married woman during coverture since April 4, 1877, are not subject to the disposal of her husband or liable for his debts, but are her separate and sole property. Any such married woman has power to contract in relation thereto or for the disposal thereof, and may sue and be sued as if she were a *femme sole*.

Mechanics' Liens. Any person performing labor or furnishing materials for the construction, repair or improvement of any property or building, is entitled, under the law of Virginia, to a lien on the whole of the same, or sufficient thereof to cover the value of

labor performed or materials furnished. An account showing the amount and character of the work done, or materials furnished, the prices charged therefor, the payments, if any, and the balance due, verified by affidavit, and describing the property on which the lien is claimed, is required to be recorded in County or Corporation wherein the land lies, within thirty days from the completion of the building or from the time that the work thereon is otherwise terminated. Liens remain in force for only six months from the time the money to be paid is due, unless suit in equity to enforce the lien is instituted within the six months. The lien also inures to the benefit of persons to whom the general contractor is indebted for labor or materials, to the amount due to the general contractor by the owner of the property at the time the latter is notified in writing of the sub-contractor's claim. Crop liens must be recorded in the office of the Clerk of the County.

Mortgages. Mortgages on real estate must be recorded in office of Clerk of County or Corporation.

Chattel mortgages can be made, but are void as to creditors and purchasers for value, without notice, unless recorded.

Notes and Bills of Exchange. Where a bill of exchange drawn or indorsed within this State is protested, the party liable for the principal of such bill shall, in addition, pay damages upon the principal at the rate of 3 per cent. if the bill be payable out of Virginia and within the United States, and 10 per cent. if payable without the United States. On all negotiable notes and bills payable at a future day, grace is allowed according to custom of merchants. No grace on sight drafts. Legal holidays, which are January 1st, January 19th (Lee's birthday), February 22d, July 4th, first Monday in September (Labor Day), December 25th, and any day appointed by the President of the United States or Governor of the State as a day of thanksgiving, fasting, and prayer, or other religious observance, shall, for all purposes as regards presenting for payment or acceptance and of the protesting and giving notice of the dishonor of bills, bank checks, and promissory notes, be treated as the first day of the week (Sunday) and as public holidays. Whenever one of these legal holidays falls on Sunday, the Monday next following shall be a legal holiday. All bills, notes, checks, and other negotiable instruments which, by their tenor, are presentable on a legal holiday, shall become due and be presented *on the secular*, or business day next preceding.

WASHINGTON.

BANKING LAW.

(Revised by WELLINGTON CLARK, Attorney at Law, Walla Walla.)

The basis of the banking law is found in Title XVIII, Hill's Code, which relate to *Corporations*.

The law, generally, as to banking in Washington, may be summarized as follows:

Capital Stock. Minimum stock, \$25,000; shares, \$100 each; all of which shares shall be subscribed, and three-fifths of such capital stock shall be paid in before commencement of business; the remainder to be subject to the call of the trustees.

Duty of Trustees. It shall be the duty of the trustees of any bank to file with their articles of incorporation their affidavit, that three-fifths of the capital stock of such bank has been *actually paid in*.

Responsibility of Stockholders. Stockholders are held *individually* responsible, equally and ratably, and not one for another, for all contracts, debts, and engagements accruing while they remain stockholders, to the extent of the par value of their stock, in addition to the amount invested.

Reports. Banks are required to file, on the first Monday in June, each year, with the Auditor, a report, sworn to by the president, vice-president, or cashier, of its resources and liabilities, stating the amount of deposits, the aggregate of loans, and the amount upon each class of securities; the names and residences of the shareholders and number of their shares; the trustees or officers for the time being, and any other matters affecting the safety of their deposits or interests of their creditors.

Banking Powers. The usual banking powers, extended to authority to loan on real estate security, and to accept *trusts*.

The Sign Name, "Bank." It is made a misdemeanor to put up or exhibit the sign "Bank" over the place of business, or to attempt to do business under a corporate name, when not incorporated.

COMMERCIAL LAW.

Actions. All distinctions in forms of actions are abolished, except that pleadings in actions in equity are to be addressed to the Judge of the Superior Court. Every action must be prosecuted in the name of the real party in interest; except that an Administrator, Executor, Guardian or Trustee of an express trust may sue without joining the person for whose benefit the action is prosecuted; and any Assignee of any judgment, bond, specialty, book account or other chose in action, for the payment of money by assignment in writing, signed by the person authorized to make the same, may, by virtue of such assignment, sue and maintain an action in any court of law or equity as the case may require, in his or her name, against the obligor, or debtor, therein named, notwithstanding the assignor may have an interest in the thing assigned; *provided*, that any debtor may plead in defense any counter-claim or any off-set, if held by him against the original owner, against the debt assigned, save that no counter-claim or off-set shall be pleaded against negotiable paper assigned before due, and, when the holder thereof has purchased the same in good faith and for value, and is the owner of all the interest therein. Persons severally liable upon the same obligation or instrument, including the parties to bills of exchange and promissory notes, may all or any of them be included in the action at the option of the party prosecuting the action. Husband and wife may join in all causes of action arising out of contract in favor of either

or both of them; if a husband and wife be sued together, the wife may defend for her own right, and, if the husband neglect to defend, she may defend for his right also; and she may defend in all cases in which she is interested, whether she is sued with him or not. No action abates by the death, marriage, or other disability of the party, or by the transfer of interest therein, if the cause of action survive or continue; but the Court may at any time within a year thereafter, on motion, allow the action to be continued by or against his representatives or successors in interest. Actions must be tried in the county in which the defendants or some one of them resides at the time of commencement of action, subject, however, to the power of the Court to change the place of trial as provided by law. The complaint shall contain: 1. The title of cause, specifying the name of the Court, the name of the county, and the name of the parties to the action; 2. A plain and concise statement of facts constituting the cause of action; 3. A demand for the relief which plaintiff claims; if the recovery of money be demanded, the amount thereof must be stated. Affidavits may be taken before any Judge of the Superior Court, or Clerk thereof, Judges of Probate, Justices of the Peace, Notaries Public, and Auditors of Counties.

Aliens. Any alien, whether a resident of this State or not, enjoys the same powers and privileges that resident citizens now have.

Appeals. Any person considering himself aggrieved by any judgment or decision of a Justice of the Peace may appeal therefrom to the Superior Court by serving a copy of the notice of appeal on the adverse party or his attorney, within twenty days after the rendition of the judgment or decision complained of, and by filing the notice of appeal with the Justice within said time. He must also file a bond within said time, with sureties in the amount of \$100, to the effect that he will pay all costs that may be adjudged against him on the appeal, or, if a stay of proceedings be claimed, a bond with sureties in double the amount of the judgment appealed from, to the effect that the appellant will pay the costs and judgment, provided the judgment be affirmed. The Justice must then allow the appeal and furnish transcript of his docket entries, and, together with the papers in the case, certify the same up to the Superior Court.

In civil actions and proceedings an appeal from final judgment, based on the verdict of a jury, must be taken within six months after the date of the entry of such judgment; an appeal from any other final judgment within six months after service of written notice of entry thereof upon the party appealing or his attorney in the cause, but in no other case more than one year after the entry thereof; and an appeal from any order from which an appeal is allowed by this Act, within five days after the entry of the order, if any, at the time of hearing, and in all other cases within five days after the service of a copy of such order, with written notice of the entry thereof, upon the party appealing or his attorney. In criminal causes an appeal must be taken within one year after the entry of final judgment.

A party desiring to appeal to the Supreme Court may, by himself or his attorney, give notice in open court or before the Judge, if the judgment or order appealed from is rendered, or made at chambers at the time when such judgment or order is rendered or made, that appeals from such judgment or order to the Supreme Court, and thereupon the Court or Judge shall direct the Clerk to make an entry of such notice in the journal of the Court. If the appeal be not taken at the time when the judgment or order appealed from is rendered or made, then the party desiring to appeal may, by himself or his attorney, within the time mentioned, serve written notice on the prevailing party or his attorney that he appeals from such judgment or order to the Supreme Court, and within five days after the service of such notice he shall file with the Clerk of the Superior Court the original copy of such notice, with proof of the written admission of service thereof, and thereupon the Clerk shall enter such notice, with proof or admission of service thereof, in the journal of the Court. The giving or service of a notice of appeal, as mentioned, affects the appeal; the same shall become ineffectual if an appeal bond for cost and damages be not given as hereinafter mentioned. All parties whose interests are similarly affected by any judgment or order appealed from may join in the notice of appeal. An appeal bond to the adverse parties conditioned for the payment of costs and damages must be filed at or before the time of notice of appeal is given or served, or within five days thereafter. Such bond shall be in a penalty of not less than \$200 in any case, and in order to effect a stay of proceedings, where the appeal is from a final judgment for the recovery of money, shall be in a penalty double the amount of damages and costs recovered in such judgment.

Any party to any action or proceeding may, at any stage thereof, have any rulings or decisions of the Court, or a Judge, Referee, or Commissioner thereof, in the cause, together with the necessary evidence, papers or proceedings connected therewith, or on which the same were based and the exceptions thereto, if any, not already a part of the record in the cause or so much of all or any thereof as is not already a part of the record, made a part of the record in the cause by the certifying of a bill of exceptions, and any such party may, after the making of an appealable order, or the final judgment in the cause, have all rulings, decisions, evidence, papers, proceedings and exceptions in the cause, or so much thereof as may be material to an appeal from such appealable order, or from the final judgment, as the case may be, not already a part of the record, made a part of the record in the cause by the certifying of a statement of facts. The party desiring to have a bill of exceptions or statement of facts certified must prepare the same as proposed by them filing it in the cause and serve a copy thereof on the adverse party, and shall also serve written notice of filing thereof on any other party who has appeared in the cause. Within ten days after such service any other party may file and serve on the proposing party any amendments which he may propose to the bill or statement, after which either party may serve upon the other a written notice that he will apply to the Judge of the Court before whom the cause is pending or was tried, at the time and place specified, the time to be no less than three nor more than ten days after the service of the notice, to settle and certify the bill or statement.

Arrests. When the defendant has removed or disposed of his property, or is about to do so, with intent to defraud his creditors, on the final judgment or order of the Court, when the defendant, having no property subject to execution, has money which he

Original from

ought to apply in payment but refuses, with fraudulent intent toward plaintiff, before the Clerk shall issue the warrant of arrest a bond shall be executed and filed, in such sum as the Court or Judge shall fix in the order, with two or more sureties to the satisfaction of the Clerk, conditioned that if the order of arrest shall be vacated, or if plaintiff fail to recover in the action, the obligors will pay all damages the defendant may sustain, and all expenses he may incur, by reason of such arrest or imprisonment.

Assignments and Insolvency. Insolvent debtor may be discharged from debts upon executing an assignment of all his property for benefit of his creditors, if done in good faith and without fraud. Such insolvent debtor shall petition the Judge of the Superior Court, within the place of his domicile or usual residence, stating briefly the circumstances which compel him to surrender his property to his creditors, with prayer to make a cession of his estate and to be discharged from his debts. Annexed to petition the debtor shall file a schedule containing a summary statement of his affairs, with a list of his losses, if any, giving names of creditors if known, amount due to each creditor, cause and nature of indebtedness, and existing judgment, mortgage or other securities for the payment of any such debt. Schedule shall contain complete inventory of all property, debts, moneys on hand, etc., and full statement of all incumbrances upon his property; also estimated cash value of property surrendered. Schedule to be signed and sworn to by debtor. The Judge shall make an order requiring creditors to show cause why an assignment should not be made, and the debtor discharged from his debts. The Court exempts and sets apart for the use and benefit of such insolvent all property authorized by law to be retained for the use of the debtor or his family. Creditors, after legal proof of claims made, appoint one or more (not exceeding three) assignees, in the appointment of whom the majority prevails. If creditors fail to appoint assignee, Court may appoint the Sheriff of the county as such assignee. Assignees give bonds in such sum as is determined by the majority of creditors, or by the Court. A general assignment of property by an insolvent may be made for the benefit of all his creditors in proportion to the amount of their respective claims. Such assignment discharges any and all attachments on which judgment has not been taken. To such assignments the consent of creditors is presumed. To the assignment the debtor must annex an inventory, under oath, of all his estate, real and personal, and also a list of his creditors, with their post-office address, and a list of the amounts of their respective demands. Every assignment must be in writing, duly acknowledged as conveyances of real estate, and recorded in the record of deeds of the county where the person making the same resides, or where the business in respect to which the same is made has been carried on. Upon the application of two or more creditors of said debtor therefor, by petition to the Judge of the Superior Court of the county in which such assignment is or should be recorded, at any time within thirty days from the recording of such assignment, the Judge shall direct the Clerk to order a meeting of the creditors to choose an assignee of the estate instead of the assignee named in the debtor's assignment. At the meeting the creditors appear in person or by proxy, and at such meeting a majority in number and value attending such meeting select one or more assignees. Such assignee, after giving bonds, files his inventory, takes a conveyance from the debtor's assignee, gives notice to creditors, and proceeds to wind up the affairs of the estate. Upon the final order of settlement, if the estate pays fifty per cent., and no fraud appears on behalf of the debtor, the debtor is discharged from all debts incurred prior to the making of the assignment. The foregoing does not apply to corporations; however, corporations may make common-law assignments.

Attachment may be had at the time of the commencement of an action, or at any time afterwards, before judgment. The writ of attachment is issued by the Clerk of the Court (Superior when more than \$300, and Justice's when less) in which the action is pending; but before the writ issues, the plaintiff, or some one in his behalf, must make and file with such Clerk an affidavit showing that the defendant is indebted to the plaintiff (specifying the amount of indebtedness over and above all just debts and offsets), and that the attachment is not sought and the action is not prosecuted to hinder, delay, or defraud any creditor of defendant, also showing that defendant is a foreign corporation; or that a defendant is not a resident of this State; or that the defendant conceals himself, or has absented himself from his usual place of abode in this State, so that the ordinary process of the law can not be served upon him; or that defendant has removed, assigned, secreted or is about to remove, assign, or secrete any of his property from this State, with intent to delay or defraud his creditors; or that defendant is about to convert his property, or part thereof, into money for the purpose of placing it beyond the reach of his creditors; or that the defendant has been guilty of a fraud in contracting the debt, or in incurring the obligation for which the action is brought. An action may be commenced and property attached before a debt becomes due when nothing but time is wanting to fix an absolute indebtedness, and when an affidavit in addition to that fact states that the defendant has disposed or is about to dispose of his property with intent to defraud creditors; or that the defendant is about to remove from the State and refuses to make any arrangements for securing the payment of the debt when it becomes due, and which contemplated removal was not known to the plaintiff at the time the debt was contracted; or that the debt was incurred for property obtained under false pretenses. Before the writ of attachment shall issue, the plaintiff, or some one in his behalf, shall execute and file with the Clerk a bond or undertaking with two or more sureties, in a sum in no case less than \$300 in the Superior Court, nor less than \$50 in a Justice's Court, and double the amount for which plaintiff demands judgment, conditioned that the plaintiff will prosecute his action without delay and will pay all costs that may be adjudged to the defendant, and all damages which he may sustain by reason of the attachment.

Claims Against Estate of Deceased Persons. Executors and administrators must publish notice to the creditors to present their claims, which must be presented in writing within one year from the date of the first publication thereof, and be supported by the affidavit of the claimant, or some one in his behalf, to the effect that such claim is correct, that the amount claimed is justly due, that no payments have been made thereon, and that there are no offsets to such claim, to the knowledge of the affiant. Such

claim, when presented, must be allowed or rejected by the executor or administrator, and such allowance or rejection indorsed thereon. If allowed, it must be presented to the Probate Judge for his allowance or rejection. If allowed by the Judge, it is filed in the Probate Court, and from thenceforth is an acknowledged debt against the estate. If rejected either by the Probate Court or Judge, suit must be brought within three months or the claim will be forever barred.

Contracts. Contracts made on Sunday are valid.

Courts. Terms and Jurisdiction. The Superior Court is open at all times, except on non-judicial days, for the transaction of business, and has jurisdiction in all civil causes, except probate matters and such cases (below \$100) as are cognizable by Justices of the Peace. Probate Courts hold four regular terms each year.

Deeds and Acknowledgments. All conveyances of real estate or of any interest therein, and all contracts creating or evidencing any incumbrance upon real estate shall be by deed. Deeds must be in writing, attested by two witnesses and acknowledged. Private seals to signature of grantors in deeds are not essential to their validity and the term "heirs" or other technical words of inheritance are not required to convey an estate in fee simple. Acknowledgments may be taken by a Judge of the Supreme Court, or Clerk thereof, or the Deputy of such Clerk; Judge of the Superior Court or a Clerk thereof, or the Deputy of such Clerk; Judge of the Probate Court, Justice of the Peace, County Auditor, or a deputy of such Auditor, or a Notary Public. Acknowledgments of deeds or conveyances may be executed or acknowledged in any other State or Territory of the United States, in the form prescribed for executing and acknowledging deeds within the State, and the execution thereof may be acknowledged before any officer authorized thereto in the State or Territory wherein the acknowledgment is taken, or before any Commissioner appointed by the Governor of this State for such purpose; and if not acknowledged before a Commissioner for this State, or a Clerk of a court of record, or Notary Public, or other officer having a seal, said acknowledgment shall have attached thereto a certificate of a Clerk of a court of record, or other certifying officer, that the person whose name is subscribed to certificate was, at the date thereof, such officer as he represents himself to be, that he is authorized by law to take acknowledgments of deeds, and that he verily believes the signature of the person subscribed thereto to be genuine. In any foreign country, before any Minister Plenipotentiary, *Charge d'Affaires*, Consul General, Consul, Vice-Consul, or commercial agent of the United States, or before the proper officer of any Court of said country, or the Mayor or Chief Magistrate of city, town or other municipal corporation therein, and must be certified by such officer, under his official seal, if any he has, and such certificate shall be *prima facie* evidence of the facts recited therein.

Execution may be had at any time within five years after judgment rendered. Real property sold thereunder may be redeemed within six months, except when sold on decree of foreclosure of mortgage, when redemption may be made within one year. Stay is allowed: In the Supreme Court, under \$500, thirty days; \$500 to \$1,500, sixty days; above \$1,500, ninety days. In Superior Courts, under \$300, two months; \$300 to \$1,000, five months; over \$1,000, six months.

Exemptions. Homestead, to the value of \$1,000, if selected any time before sale. Also to each householder, household goods, coin value \$500; also provisions and fuel for six months, and certain domestic animals with six months' feed for the same to the value of \$250; to a mechanic the tools and instruments necessary to carry on his trade for the support of himself and family, and other material not exceeding in value \$500 in coin; to a farmer, teams and farming utensils not exceeding \$500 in value and 150 bushels of wheat and oats or barley, and fifty bushels of potatoes, with ten bushels of corn, peas and onions for seed; to a physician, his library not exceeding \$500, horse and buggy, and medicines not exceeding \$200 in value; to other professional men, their libraries not exceeding \$1,000 and office furniture, fuel, etc., not exceeding \$200, also all fire-arms for family use, and boats with rigging, etc., not exceeding \$250; to teamsters and loggers, cattle, horses and wagons not exceeding \$300 and provisions for six weeks. But no property is exempt from an execution issued upon a judgment for the purchase price thereof, or for any tax levied thereon. Each party has the right to select the property he may claim as exempt.

Garnishment may be issued in the following cases: (1) Where an original attachment has been issued in accordance with the statutes in relation to attachments. (2) Where the plaintiff sues for a debt and makes affidavit that such debt is just due, and unpaid, and that the garnishment applied for is not sued out to injure either the defendant or the garnishee. (3) Where the plaintiff has a judgment wholly or partially unsatisfied in the court from which he seeks to have a writ of garnishment issued. In the case mentioned in subdivision two the plaintiff shall execute a bond with two or more good and sufficient sureties, to be approved by the clerk issuing the writ, payable to the defendant in the suit in double the amount of the debt, conditioned that he will prosecute his suit and pay all damages and costs that may be adjudged against him for wrongfully suing out such garnishment. Before the issuance of the writ of garnishment plaintiff, or some one in his behalf, shall make application therefor by affidavit, stating the facts authorizing the issuance of the writ, and that plaintiff has reason to believe, and does believe, that the garnishee, stating his name and residence, is indebted to the defendant, or that he has in his possession or under his control personal property or effects belonging to the defendant, or that the garnishee is an incorporated or joint stock company, and that the defendant is the owner of shares in such company or has an interest therein.

Interest. The legal rate is eight per cent. Any rate of interest agreed upon in writing is valid. Judgments bear legal rate from date.

Judgments are a lien on real estate for five years from entry of judgment in the clerk's office, and may be revived on motion after five years and within six.

Limitations of Suits. *One year:* Action against Sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process. Action against an executor or administrator for misfeasance, malfeasance or mismanagement of estate, one year from final settlement or discovery of same. *Two years:* Action for libel, slander and false imprisonment, and an action for a forfeiture or penalty to the State. *Three years:* Contracts not

in writing. An action for waste or trespass on real property. For taking, detaining or injuring personal property, for the specific recovery thereof. For relief on ground of fraud. Action against Sheriff, Coroner or Constable, upon a liability incurred by the doing of an act in his official capacity and by virtue of his office, or by omission of an official duty. Action upon a statute for penalty or forfeiture. Action for seduction and breach of promise. *Five years:* No action for the recovery of any real estate sold by an executor or administrator under the laws of this State, or the laws of the Territory of Washington, shall be maintained by any heir or other person claiming under the deceased, unless it is commenced within five years next after the sale, and no action for any estate sold by a guardian shall be maintained by the ward or by any person claiming under him, unless commenced within five years next after the termination of the guardianship, except that minors and other persons under legal disability to sue at the time when the right of action first accrued may commence such action at any time within three years after the movement of the disability. *Six years:* Contracts in writing or liability arising out of a written agreement, or a judgment or decree of any court, or for rents, issues or profits of real estate. *Ten years:* Recovery of real property, or the possession thereof. Revivor: Part payment or promise in writing.

Married Women have same right to acquire, hold, enjoy and dispose of property, to contract, sue and be sued, as if unmarried. Civil disabilities of wife no greater than of husband. Neither husband nor wife liable for debts of other. Either may manage, control, incur, devise or convey *separate* property same as if unmarried. Husband or wife can convey his or her separate property or interest in the community property directly, and can constitute the other his or her agent or attorney in fact in dealing therewith. In absence of misconduct the mother shall be as fully entitled to the custody, control and earnings of the children as the father. The expenses of family and education of children are chargeable upon the property of both husband and wife, or either of them, and in relation thereto they may be sued jointly or separately. Property of wife acquired before marriage, and afterward by gift, devise or descent, and the rents, issues and profits thereof, her separate property; same with husband; property otherwise acquired during coverture held in common; all community property, however, subject to control of husband. Wife must join with husband in conveyance of the community real property. Marriage settlements must be in writing, executed, acknowledged, etc., as grants of real estate. To avoid liability for husband's debts, wife must record inventory of her separate estate, duly executed. Dower and tenancy by curtesy are abolished.

Notes and Bills. Promissory notes payable to order or bearer have the same effect and are negotiable in like manner as inland bills of exchange, according to the custom of merchants. Three days' grace are allowed on bills of exchange payable at sight, and on all negotiable promissory notes, orders or drafts payable at a future day certain, unless there is an express stipulation to the contrary. In all promissory notes or similar instruments, in writing, an attorney's fees may be allowed when specially contracted to be paid by the terms of the note: Sunday, 1st day of January, 22d day of February, 4th day of July, and 25th day of December; any day designated by public proclamation of the Chief Executive of the State as a day of thanksgiving, and the day known as Memorial, or Decoration Day; but the court may allow less, if it deems less to be reasonable. The time within which an act is to be done shall be computed by excluding the first day and including the last, unless the last day is a holiday or Sunday, and then it is also excluded. No other legal holidays. No person within the State shall be charged as an acceptor of a bill of exchange, unless his acceptance shall be in writing, signed by himself or his authorized agent. If such acceptance be written on a paper other than the bill, it shall not bind the acceptor, except in favor of a person to whom such acceptance shall have been shown, and who, on the faith thereof, shall have the bill for a valuable consideration. Every holder of a bill, presenting the same for acceptance, may require that the acceptance be written on the bill; a refusal to comply with such request shall be deemed a refusal to accept, and the bill may be protested for non-acceptance.

Real Estate and Chattel Mortgages must be signed and acknowledged as deeds are signed and acknowledged. Chattel mortgages are void against creditors of the mortgagor and subsequent purchasers, unless accompanied by affidavit of the mortgagor that the mortgage is made in good faith, and without any design to hinder, delay or defraud creditors, and is acknowledged and recorded in like manner as conveyances of real estate.

Receivers. Receivers may be appointed by the court in the following cases: (1) In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to his claim. (2) In an action between partners or other persons jointly interested in any property or fund. (3) In all action where it is shown that property, fund, or rents and profits in controversy are in danger of being lost, removed, or materially injured. (4) In an action by a mortgagee for the foreclosure of a mortgage and the sale of a mortgaged property when it appears that such property is in danger of being lost, removed, or materially injured, or when such property is insufficient to discharge the debt to secure the application of rents and profits accruing, before a sale can be had. (5) When a corporation has been dissolved or is insolvent, or is in imminent danger of insolvency, or has forfeited its corporate rights. (6) And in such other cases as may be provided for by law, or when, in the discretion of the court, it may be necessary to secure ample justice to the parties; *provided*, that no party or attorney or other person interested shall be appointed receiver therein.

WEST VIRGINIA.

BANKING LAW.

(Revised by W. J. W. COWDEN, Attorney at Law, Wheeling.)

The capital stock of a banking company shall not be less than \$25,000, nor more than \$500,000. The stockholders are personally

liable to the creditors, over and above the amount of stock held by them, respectively, to an amount equal to their respective shares so held, for all liabilities accruing while they are such stockholders. The State Bank Examiner is required, between April and November, to examine the condition of each bank and publish a statement in the county where the bank is located.

Not less than thirteen persons may organize a Savings bank without being a joint stock company. The business shall be managed and directed by a board of trustees, whose responsibility and fitness shall be certified by the Judge of the Circuit Court of the county in which the bank is located. The deposits shall be invested by the trustees in first mortgages or deeds of trust on real estate, bonds or securities of the United States, or of any State, county, district, city or town, or loaned on personal security. An available fund, not exceeding ten per cent. of the deposits, shall be kept to meet current expenses and payments in excess of receipts. The circuit court of the county, on application of five depositors, may appoint two or more persons to examine into the investments and its business generally. Title and Trust Companies are authorized to do a general banking business.

COMMERCIAL LAW.

Acknowledgments may be taken before a Notary Public, Recorder, Prothonotary, or Clerk of any court of record within the United States, or Commissioner appointed to act within the same by the Governor of this State, duly authenticated by the official seal of such officer annexed to the certificate of acknowledgment.

Assignments and Insolvency. Assignments must be for the benefit of creditors equally, and any preference is void. Such assignments do not operate as a discharge. A defendant debtor under arrest may be discharged from such arrest by making conveyance of his property not exempt by law. Assignments are made by deed acknowledged as other deeds, and filed in office of Clerk of County Court. If real estate is assigned, the wife of the assignor must sign, seal and acknowledge the same to bar her dower.

Attachment process will issue on creditor's affidavit that debtor, or one of them, is non-resident; has left, or is about to leave the State; conceals himself so that summons can not be served upon him; is removing or about to remove his property out of the State; is converting his property into money, etc., with intent to defraud his creditors; has assigned or disposed of his property with intent to defraud his creditors; has property or rights in action which he conceals, or fraudulently contracted the debt for which the action is brought. Upon the creditor giving bond and security the Sheriff is required to take the attached property into his possession. Goods, effects or money due the defendant in the hands of a third party can be garnished. There is no imprisonment for debt in this State, but defendant in civil action may be arrested when about to leave the State or to remove or assign property, etc., with intent to defraud his creditors.

Corporations. No church or religious body nor any company one of whose objects is to purchase land and resell at a profit, can be incorporated; but corporations may be formed for any other purpose or business useful to the public for which a firm or co-partnership may be lawfully formed in this State. At least five persons must sign the application for a charter and pay in 10 per cent of the stock subscribed by them, acknowledge the same as deeds are acknowledged, file the application in form prescribed with the Secretary of State who issues the charter. Foreign corporations may be authorized to transact business in the State, by certificate of the Secretary of State that they have filed with him a copy of their articles of association, the law and authority under which they are acting. The certificate and a copy of their charter must be filed with the clerk of the county court of some county in which they do business, and the certificate recorded in his office.

Courts. Terms and Jurisdiction. Justices' Courts have jurisdiction in all civil actions where the amount claimed does not exceed \$300 exclusive of interest, and the title to real estate does not come in question. Circuit Courts are held in each county, and have jurisdiction where the amount of the debt exceeds \$50 exclusive of interest. County Courts, through their clerks, have full probate powers.

Depositions. The deposition of a witness may be taken in or out of this State, on reasonable notice to the adverse party of the time and place of taking the same. If taken by a justice, notary, commissioner in chancery, or any officer authorized to take depositions, and certified by him, may be received without proof of his signature.

Commissioners appointed by the Governor of this State are authorized to take depositions in the State for which they were appointed and reside.

Execution issues immediately after term of court at which judgment was rendered, and is returnable in ninety days. There is no stay of execution in the higher courts, but in Justice's Courts stay is allowed as follows: Under \$50, two months; \$50 to \$100, four months; over \$100, six months. There is no redemption of property sold under execution, deed of trust or mortgage when foreclosed.

Exemptions. Any husband or parent residing in this State may set apart personal estate not exceeding in value \$200 as exempt from execution. A mechanic or laborer, whether a husband or parent or not, may exempt the tools of his trade, but the whole amount must not exceed the value of \$200. A homestead to the value of \$1,000 may be set apart as exempt, provided a declaration be recorded among the public land records prior to contracting the debt against which the exemption is claimed.

Interest. The legal rate is six per cent. Excess of interest is not recoverable under the law. Incorporated companies, only, may borrow money at higher rates. Judgments bear six per cent. Illegal interest paid may be recovered within five years.

Judgments are a lien upon all real estate of the debtor, but to secure the lien against purchasers not having notice judgment must be docketed in the County Clerk's office within ninety days.

Limitations of Suits. Store account, three years; accounts concerning trade between merchants, five years; contracts not in writing, or in writing and not under seal, five years; contracts under seal, twenty years, except contracts executed after April 1, 1869, whether under seal or not, ten years; to recover land, ten years. Revivor: Acknowledgment of debt or promise in writing to pay.

Married Women. Property of wife acquired at any time and from any source other than her husband, held to her sole and separate use; provided, that the husband must join in conveyance of realty. Widow is endowed of one-third of all the real estate of which her husband was seized of an estate of inheritance at any time during her coverture, unless such dower shall have been lawfully barred or relinquished.

Mortgages are executed and acknowledged as deeds, but contain a clause of defeasance. They can only be enforced by foreclosure in a court of equity, and their place is taken generally by deeds of trust which do not require the intervention of a court. Chattel mortgages are also little known.

Notes and Bills of Exchange. Every promissory note or check for money payable in this State at a particular bank, or at a particular office thereof, for discount and deposit, or the place of business of a savings institution or savings bank, and every inland bill of exchange payable in this State, shall be deemed negotiable. Three days of grace are allowed. When a bill of exchange drawn or indorsed within this State is protested for non-acceptance or non-payment, there shall be paid by the party liable for the principal of such a bill, in addition to what else he is liable for, damages upon the principal at the rate of three per cent. if payable out of the State and within the United States, and ten per cent. if payable without the United States. Commercial paper falling due on a Sunday is payable and may be protested on the preceding day. If on January 1, July 4, or December 25, then on the preceding day, or if that be Sunday then on the preceding Saturday.

Proof of Claims. When claim is sent for collection make the account out in detail. Send the full name of the party who is plaintiff; if a partnership, the full name of each partner and the name of the firm. Accounts can be proved on hearing of the case by oral testimony, or by depositions regularly taken. Non-residents are usually required to give security for costs.

Taxes are a lien on real estate from the first day of February in each year, and draw six per cent. interest if unpaid after the day fixed by law for payment. Every two years (as in 1879, 1881, etc.) a tax sale is held in each county, at which all the lands previously returned delinquent and not redeemed are sold for taxes, interest, and a penalty of fifteen per cent. One year after the sale is allowed for redemption. Silver coin is a legal tender for all taxes.

Wills. Wills must be executed in the presence of the testator by two witnesses, who sign at the request of the testator in his presence and in the presence of each other.

WISCONSIN.

BANKING LAW.

(Revised by SHEPARD, HARING & FROST, Attorneys at Law, Milwaukee.)

All banking laws and amendments thereto are submitted to popular vote under a constitutional provision. Banking corporations are created under general laws for that purpose. Any number of persons may so associate and acquire the usual banking powers. The capital stock must not be under \$25,000 or over \$500,000. From banks of circulation, adequate security by deposit of bonds and public stocks with the State Treasurer is required before issue of their bills; but existing Federal legislation renders the careful provisions of the law in this respect practically a dead letter. All fees for protesting the circulating notes of any bank shall be paid by the person procuring the protest, and the bank shall be liable therefor. Any State bank may be changed into a National banking association under the general banking laws of the United States on the written assent of stockholders, owning two-thirds of the capital stock, being filed in such bank. The organization may then be perfected, by the Directors, under the laws of the United States, and thereafter all the property shall vest in the new association. No security but the individual liability of each stockholder to the amount of his stock, is required from banks of deposit and discount only. A list of the shareholders must be filed semi-annually in the offices of Register of Deeds of the county, and of the State Treasurer. Stock in the bank is taxable where the bank is located. The rate of interest lawful among individuals, and the usual bank rule of discount and of calculating time are permissible to banks. Ten per cent. is the highest contract rate and six per cent. is the legal rate of interest. Semi-annual reports of the bank's business must be filed and published.

Private banking is permitted, without State control or interference, apart from the usual civil and criminal liabilities and remedies, except that the name of the person or firm must be displayed. Most banking, not under National charters, is so conducted.

Savings banks, on what is known as the "Massachusetts" plan, being strictly mutual corporations, may be organized by twenty or more persons, who must file a certificate stating their object, name of bank, etc. The modes of investment, securities, etc., are duly guarded. Deposit in one year by any one person is limited to \$1,000. An annual report of its true financial condition must be filed by every bank in the office of the Secretary of State. Profits over 6 per cent. can be divided only once in three years.

It is made a misdemeanor by statute to issue a check with intent to defraud, when the maker has no funds on deposit. Bank stock is assessed in the county and assessment district where the bank is located and doing business.

COMMERCIAL LAW.

Acknowledgments. (See Deeds.) Deeds and like instruments for record must be acknowledged within the State before any Judge, or Clerk of court of record, Court Commissioner, County Clerk, Register of Deeds, Notary Public or Justice of the Peace; without the State, according to either the local law or the Wisconsin law, before a notary with seal or other authorized officer. No "clerk's certificate" for a Notary, if official seal is affixed (as should be done in all cases), or for Commissioner of Deeds for Wisconsin, or Clerk of court of record is needed; for other officers it is needed to authenticate the acknowledgment.

Actions. (See Attachment.) The Circuit and a few County Courts have general civil jurisdiction; Justices of the Peace, of actions (except for some torts and about land titles) up to \$200. The practice is under a code. Distinctions between actions at law and suits in equity have been abolished as to form. Actions affecting real property must be commenced in the county where the land lies; non-residents must give security for costs on commencing actions, if security is demanded. Process to begin action in all courts is by summons. In Courts of record defendants must answer in twenty days. Arrest is allowed in certain cases. (See Arrests.)

Administration. All probate jurisdiction is vested in the County Court of the county of decedent's domicile, or of his property *situs*, if a non-resident. Administrators, executors, and guardians are appointed on petition and notice, the widow and heirs being preferred over creditors, unless they decline or fail to apply. Security usually for twice the amount of personal property is required. Foreign administrators and executors can act here upon filing copies of their letters, without ancillary administration. Possession and income of all realty (except homestead, *q. v.*) as well as personalty pertains to the administrator, etc., pending disposition of the estate. All non-exempt property is applicable to debts. Debts must be proved by affidavit filed in County Court, within a time prescribed by notice given upon issue of letters (usually six to ten months), unless time extended by Court; else they are barred. This limitation does not bar contingent liabilities not fixed before said time expires. The Federal Courts ignore this limitation and entertain actions against the administrator, etc., on such debts within six years if assets are still in hand. Any other creditor or the administrator, etc., may contest claims. In insolvent estates, all other debts prorate after full payment of administrative, funeral, and last-sickness expenses, and debts preferred by United States laws. In solvent estates the same order obtains. The residue (except homestead, *q. v.*) is distributed under the will or the law of descent. (See Descent.)

Aliens may acquire, transfer and inherit property, like citizens, except that non-resident aliens cannot acquire more than 320 acres of land by purchase. Alien women not barred of dower. (See Descent.)

Appeals. Appeals may be taken to Supreme Court direct from Circuit and County Courts having civil jurisdiction, regardless of the amount involved, within two years from entry of judgment. Bills of exceptions must be served within sixty days. The appellant must give security for costs of appeal. Additional undertaking is necessary to stay execution. Appeals from Justice Courts to Circuit Court and County Courts with civil jurisdiction are permitted within twenty days after entry of judgment, and security may be required. The case is tried *de novo* in the Appellate Court if amount in controversy exceeds \$15. Appeals as to wills and other matters of probate jurisdiction lie from County to Circuit Court, and thence to Supreme Court.

Arrests are permitted in certain actions based on tort or fraud, and in actions for fine or penalty, and for recovery of personal property unjustly detained or concealed. No female can be arrested on any action except for willful injury to person, character or property. When an order of arrest is granted, bail in a sum stated to appear in court or respond to the judgment may be given.

Assignments for Benefit of Creditors may be made by an insolvent debtor to such person, being a resident of this State, as he elects, who must give bond in double the nominal value of assets. The assignee must file list of creditors and inventory within twenty days, and notify creditors who may prove their claims by affidavit filed with assignee or with Clerk of Circuit Court of county where debtor lives. Proof of claim must be so filed within ninety days after assignee gives notice, or is barred from dividend declared before filing. That court has a general supervision of all proceedings and settles final accounts. The assignee or any creditor can contest any claim filed. Debts to employes for wages, etc., earned within three months are preferred by law, and the same for six months may be preferred by the assignment. All others must prorate, and other preferences avoid assignment. Exemptions are allowed to assignor. (See Exemptions.) Except partnerships and corporations. The assignment cancels a lien or levy under judgment by confession entered on note given within sixty days before; or, conditionally on the creditor's knowing or having cause to believe the debtor insolvent any sale or security made within that time and in contemplation of an assignment or of insolvency. Insolvent debtors, after properly noticed hearing, may be discharged from all liabilities. A debtor who has made a voluntary assignment, by filing within one year thereafter his application for discharge in the Circuit Court, where such assignment is filed, may be discharged from all debts of claimants who have participated therein after notice and hearing. Upon payment of final dividend, judgment satisfying the balance due on all claims filed under the assignment is entered in favor of a signor. Such application shall have annexed thereto a sworn statement that he has not disposed of any property for his future benefit, or in any way fraudulently compounded with any of his creditors; opposing creditors may have a jury trial on hearing of application for discharge, and have the right to appeal. Foreign assignments are treated according to the rules of comity. A majority in number and value of creditors may procure removal of assignee, and appointment of a new one, and the Circuit Judge may, upon notice and after hearing, remove assignee for cause. The assignee must file verified itemized statement annually during continuance of trust; assignor and assignee may be fully examined as to all matters relating to state of business immediately before and after assignment.

Attachment (*see Garnishment*) may be had, on contracts, when indebtedness exceeds fifty dollars, for absconding from State or concealment in it, to avoid process; for fraudulent disposition or removal, actual or intended, of property; for fraudulent contraction of liability; for official defaults; or against a non-resident, or a foreign corporation. On torts, it may be had in the two latter cases. It may be had in Justice Court, when indebtedness exceeds five dollars, on the same grounds and also for residence of defendant over 100 miles away and in another county of this State. The writ issues only upon affidavit of the ground for it and of the debt or tort and (except in Justice Court) a bond for two hundred and fifty dollars must go with it. The defendant may traverse or deny the ground for the writ, and if he succeeds on trial the writ is dismissed, but judgment (on proof of debt) given for plaintiff, less costs of attachment. Attachment may be had on a debt not due, if bond is given for thrice the debt; but on failure to sustain the writ, the action too fails. This is the only case where an action lies before debt is due. In case of traverse, allegations of affidavit must be strictly proved. Amendments of affidavits permitted.

Bills of Lading. Bills of lading, warehouse receipts, and vouchers are transferable by delivery, without indorsement or assignment, and any person to whom the same is so transferred shall be deemed and taken to be the owner of the property therein specified, so far as to give validity to any pledge, lien or transfer made or created by such person, unless such receipt, bill of lading, voucher or other document shall have the words "non-negotiable" plainly written or stamped on the face thereof. Fraudulently issuing duplicate receipts or bills is made punishable by imprisonment.

Bills of Sale. (*See Sales.*)

Chattel Mortgages must be filed in Town or City Clerk's office, or actual possession must be taken and kept by mortgagee, to make them good against third parties; and when filed, they must be renewed by filing affidavit of amount unpaid every two years from date. If on household furniture or exempt chattels (*see Exemptions*), they are invalid without the wife's signature before two witnesses. If on stocks of merchandise, they become due between the parties unless the mortgagor every sixty days files a verified statement of amount sold, payments made and new stock added; if this statement is not so filed, the mortgage becomes due between the parties and invalid as to third parties fifteen days afterward. Foreclosure sales cannot be had without mortgagor's consent, and the goods cannot be removed from the county within five days after seizure. On satisfaction of mortgage, certificate of mortgagee may be filed and original mortgage removed from files.

Collaterals and Pledges. When goods and chattels shall be pledged or mortgaged for the payment of money, or the performance of any contract or agreement, the right and interest in such goods of the person making such pledge or mortgage may be sold on execution against him, and the purchaser shall acquire all his right and interest, and shall be entitled to the possession of such goods and chattels on complying with the terms and conditions of the pledge or mortgage, but the officer shall not take such property out of the possession of the pledgee or mortgagee when the judgment debtor is not entitled to the possession thereof, unless the judgment creditor or purchaser shall have first complied with the terms and conditions of such pledge or mortgage.

Commercial Travelers do not have to pay State or local licenses if selling only from sample in usual way.

Corporations are organized only under general laws. Stockholders are liable for debts of the corporation to the full amount remaining unpaid upon their stock subscriptions, but no more when stock fully paid for, except as to wages due employes of other than railroad companies, for six months. On such debts each stockholder is liable to the amount of his stock. Foreign corporations may deal, sue and defend here, like domestic ones; but insurance companies are under State license and supervision.

Days of Grace are abolished by statute, to take effect April 5, 1894.

Deeds. (*See Acknowledgments.*) Deeds and mortgages must be sealed (with scroll or "L. S.") and have two witnesses and be duly acknowledged. An unrecorded deed or mortgage is void as against a *bona fide* purchaser without notice, but good as against a subsequent judgment or attachment.

Depositions. The deponent shall be sworn to testify the truth, the whole truth, and nothing but the truth, relating to the action, proceeding, or matter for which his testimony is taken, and his evidence shall be taken in writing. The officer taking the same must insert therein every answer or declaration of the witness which either party requires to be inserted; in depositions taken by oral interrogatories, every interrogatory shall be reduced to writing. When completed, the deposition shall be carefully read to witness and he shall subscribe the same. The depositions shall in all cases be delivered or transmitted to the clerk of the court, the magistrate, or other person before whom the action, proceeding, or matter is pending, securely sealed. Objections which go to the form or order of a question should be noted in the deposition before it is answered. The party producing the deponent shall, in all cases, be allowed first to examine him, either upon verbal or written interrogatories, on all points which he shall deem material; and then the adverse party may examine the deponent in like manner; after which either party may propose such further interrogatories as the case may require. The deposition shall be written by the justice or other officer by whom the same is taken, or by the deponent, or by some disinterested person in the presence and under the direction of the justice or officer. When a regular commission issues from a court of record, and interrogatories are filed, the following statutory rules prevail: Sec. 4115, R. S., 1878—The commissioner named in the direct interrogatories shall fix the time and place for executing the commission, and give the other commissioner, if any, one day's notice thereof, when he resides in the same place, and when not, one day's notice in addition for every thirty miles of distance between the place of his residence and the place fixed for executing the commission. If the notice be by mail double time shall be allowed; but notice may be waived in writing or by appearance at the execution of the commission. If there be two commissioners, the place for executing the commission shall be fixed in the county where they reside, unless they agree upon another. The commissioner named in the direct interrogatories

shall have charge of and return the depositions. **RULE XVIII, Sec. 4**—On the receipt of the commission by the commissioner named in the direct interrogatories, he shall fix a time and place for executing it, and notify the other commissioner, if any there be, under the provisions of Section 4115 of the Revised Statutes, unless such notice be waived in writing or by his appearance at the execution of the commission. At the time and place so fixed the commissioner or commissioners shall proceed to execute such commission in accordance with said section 4115, and sections 4, 5, and 6 of this rule, copies whereof shall be transmitted with the commission for their instruction. If either of the commissioners shall not attend at the time and place so fixed, the other may proceed to execute the same with like effect as if both were present; but he must certify in his return that the commissioner so absent had due notice of the time and place of executing the same, and that he failed to attend pursuant thereto. **Sec. 5.** The commissioner or commissioners shall proceed to execute same as follows: The commissioners, or one of them, shall publicly administer an oath to each witness named in the commission, that the answers which he shall make to each of the interrogatories propounded to him shall be the truth, the whole truth, and nothing but the truth. Each interrogatory, direct and cross, shall be propounded to him, and his answer thereto be correctly reduced to writing, and with any exhibit thereto be annexed to and returned with the commission. Each witness shall subscribe his name at the end of his answers to the interrogatories, and the commissioner or commissioners shall subscribe his or their names at the foot of each page of the testimony. If any exhibit is produced and proved, or referred to in the answer of any witness, it shall be marked as an exhibit by some convenient designation, either by letter or number, by the commissioners, or one of them, and be referred to in the testimony of the witness, and shall be annexed to and returned with the depositions. If the paper be a record or other document not in the control of the party or the commissioner, it shall be sufficient to annex a copy, stated by the witness in his answer to be a true copy thereof. The commissioner or commissioners shall certify in their return that each witness was duly sworn or affirmed before giving his evidence, and shall also state the time when the testimony was taken. The return of the commissioner or commissioners shall be indorsed on the commission. **Sec. 6.** When the answers to all the interrogatories and exhibits thereto, if any, shall have been so signed and annexed to the commission upon which the return shall be indorsed, the proper commissioner shall inclose the same in a suitable envelope, which shall be properly sealed, and direct the same to the clerk of the court from which the commission issued, at his place of office, with the title of the action indorsed thereon, and the package shall be immediately transmitted to him by mail or express.

Descent and Distribution. Realty (except homestead, *q. v.*), undevise, descends to: 1. Children and their issue, if all are in the same degree; else by right of representation. 2. Widow. 3. Parents, or survivor of them. 4. Brothers and sisters, or if deceased, their issue by right of representation. 5. Other next of kin in equal degree. All realty owned in husband's life, except homestead, is subject to dower, unless barred by wife's assent to deed, or by a jointure or provision by will accepted in lieu of it; and all owned by wife at death and not devised by her or descended to issue by a former husband is subject to a tenancy by the curtesy. A non-resident wife is dowable only of lands owned by husband at decease. Tenancy by curtesy is independent of issue. Personalty is distributed by rule—widow entitled to same share as a child.

Evidence. There is no disqualification of a party as a witness, except as to transactions, etc., with a dead or insane person, for or under whom the opponent sues or defends, and usual rules in case of coverture or confidential relations.

Executions from Justice Court may be stayed by bond for periods varying with amount; from a Court of Record only by security on appeal. There is no lien on chattels till levy; and sale is on twenty days' notice. On realty, lien begins with docket of judgment or transcript from Justice or Record Court, in Circuit Court Clerk's office of the county where the land lies; all papers or certified copy may be filed in county where land lies for enforcement of judgment. Sale is had on six weeks' notice, and Sheriff's deed absolute issues after fifteen months without redemption. Supplementary proceedings lie after issue of execution and before or after return unsatisfied. Execution is issued, as of course, within five years after judgment; after five years, only on authority from the court.

Exemptions. (*See Homestead.*) Exempt chattels are clothing, bedding, stoves, cooking utensils and other furniture to value of \$200; library; two cows, ten swine, two horses or mules (or one of either and a yoke of oxen), ten sheep and their wool, and a year's food for all exempt live stock; a wagon, a sleigh, a dray, a plow and \$200 worth of other farm tools or tackle for teams; a year's provisions for debtor and family; tools and implements, or stock in trade, or both, up to \$200; sewing machines for family use; printing materials and presses of a printer or publisher up to \$1,500 (except that as to claims of laborers and servants for services, only \$400 shall be exempt); patents, owned by the inventor; three months' earnings (not over \$60 a month), if the debtor has a family to support; and all insurance money on exemptions. Most of these exemptions avail only residents. Corporations have no exemptions. Partners, however many, may take exemptions as individuals from joint assets. None of above property exempt from execution or attachment in action for purchase money of the same property. If husband does not select exemptions, wife may.

False Pretenses may be committed by word or writing, and are punishable by fine or imprisonment.

Garnishment. (*See Attachment.*) This remedy lies, whenever attachment does, in any court, upon affidavit for it showing indebtedness and the debtor's lack of sufficient non-exempt assets to satisfy it. No undertaking is required. This is a common mode (as less costly than attachment) of testing an alleged fraudulent transfer or invalid assignment for creditors. All garnishees may be united in one summons, and be deemed severally proceeded against unless otherwise specified; money garnisheed must be paid into court; property garnisheed may be released on giving sufficient undertaking.

Original from

Homestead. (*See Exemptions.*) Real estate of whatever value, not over one-quarter acre in a city or village, or forty acres for agriculture in the country, is exempt to the actually resident owner. So, too, of its insurance, when burned, or its proceeds when sold, and held not over two years for purchase of a new one. But it is subject to mechanics' and mortgage liens, created with the wife's assent, and it cannot be conveyed without her signature (except that purchase money mortgage is good without wife's signature). On death of owner (unless widow is otherwise provided for to her satisfaction) it goes to her for life or widowhood; then, as other realty, to the heirs. (*See Descent, etc.*)

Insolvency. (*See Assignments for Creditors.*) An insolvent, independently of an assignment for his creditors, may procure a discharge as to creditors within (*but not without*) the State, by surrender of all non-exempt property, and petition. The property is distributed to creditors through an assignee. On notice to creditors, and an examination of the debtor, in the absence of fraud, the discharge is granted.

Interest. The legal rate is six per cent.; maximum contract rate, ten. Usury (except in bottomry and *respondentia* bonds) forfeits the whole interest if not yet paid; if paid, treble the unlawful excess may be recovered by suit within a year.

Judgments. (*See Executions and Limitations of Actions.*) Judgments in Circuit Court keep debts alive for twenty years, are liens on land for ten years, and bear legal interest. Judgments of foreclosure bear interest at rate stated in mortgage note.

Limitations of Action are these: On sealed instrument, when cause of action accrues within the State, twenty years; when it accrues without the State, or on equitable cause of action, or a foreign judgment, ten years; on a municipal bond or other contract even when sealed, on any unsealed contract or liability at law, or trespass, trover or replevin, six years; on action against a Sheriff or other officer for violation of duty, three years; on action for a penalty or forfeiture, or for an injury to person or character, two years; on an action for equitable relief against fraud, within six years after discovery of the facts constituting the fraud; on an action for recovery of realty, ten years after the adverse possession begins, where occupant claims under a paper title; otherwise, twenty years. Absence from State, after cause of action accrued, suspends running of statute.

Limited Partnerships. (*See Partnerships.*)

Married Women (*see Chattel Mortgages, Homestead*) have in general the same rights as other adults, except that they can not become liable as sureties without an express charge of the debt on their separate estate. A deed by a married woman without her husband's signature passes her entire estate in land, free of his tenancy by the curtesy.

Mechanics' Liens. Any realty whereon labor or materials are used or furnished for any construction, repairs or improvement is subject to a mechanic's lien thereon—limited to one acre in a city or village, and to forty acres elsewhere. The lien must be preserved by filing a petition in the Circuit Court, within six months after the date of the last item of work or materials, and by a suit to foreclose the lien within a year from the date of said item. Machinery may be removed in lieu of a sale of the land for the debt. The lien covers only the interest in the title of the person incurring the lien debt; but it is paramount to all other liens, securities or transfers after date of first labor or materials furnished, even though such liens, etc., were made of record before the lien petition was filed. Mechanics' liens prorate from the proceeds, irrespective of order of origin or filing of their liens. A sub-contractor has the same right of lien, up to amount still owing principal contractors, if he gives notice of his claim to the owner within thirty days after completing his sub-contract. Liens may be assigned.

Mortgages. (*See Chattel Mortgages, Deeds.*)

Partnerships. There is no statutory regulation of general partnerships. Limited ones may be formed, to consist of general partners and special partners. The latter contribute a stated amount of capital and are liable for no losses beyond that. Public notice must be given of the formation of the firm, its members' names, their contributions of capital, etc.; the special partners must pay all their shares in cash, and must be strictly non-participating—else they become liable as general partners, but may examine into business and advise as to its management.

Promissory Notes and Bills. The common law prevails as to negotiability, protest and rights and liabilities of the various parties to them. Warehouse receipts are negotiable unless expressed not to be. Municipal bonds are not negotiable, unless expressly authorized to be. Days of grace have been abolished by statute, to take effect April 5, 1894. Damages on foreign bills, five per cent. One action may be brought against all parties liable on a note or bill. Negotiable paper maturing on Sunday or holiday becomes due on the next preceding secular day.

Protest. Bills of exchange and promissory notes are protested for non-acceptance or non-payment, and written notice thereof given to the drawer, maker and each indorser, immediately on making protest, by personal delivery or by mail, postage prepaid.

Replevin. Specific personalty may be recovered by this action, on an affidavit by or for plaintiff showing his title or right of possession and defendant's wrongful detention or taking. The limit of jurisdiction in Justice Court is \$200. All cases above that must be in courts of record. Security in double its value for return of property and payment of damages is required in the latter, but not in the former courts; and the defendant can reclaim the property pending the suit by due security in his turn. In case of contest, allegations of affidavit must be proved as questions of fact.

Sales are *prima facie* invalid, unless accompanied by immediate and continued change of possession. Unless the vendee proves his good faith this presumption is absolute. Installment leases and contracts for sale reserving title to vendor till full payment must be written, and filed like chattel mortgages. "Futures" in grain, etc., are void if intended by *both* parties only as a wager on prices; else, valid.

Statute of Frauds. Instruments affecting title or possession of realty must be in writing signed by grantor or his agent. Agreements not to be performed within a year, and those of suretyship must be in writing, expressing the consideration and signed by the

party to be charged. Contracts of sale for \$50 or over are void unless written or there is partial delivery or payment.

Supplementary Proceedings. (*See Executions.*)

Taxes are levied about December 10, and must be paid about January 20, or interest and costs are incurred. If taxes not paid, and land not previously redeemed, the land is returned delinquent to County Treasurer and sold on third Tuesday of May. The tax certificate issued therefor bears 15 per cent. interest, and after three years (unless sooner redeemed) a deed is issued to the purchaser, which is absolute and cuts off all prior title.

Wills. Any person over twenty-one, and a married woman over eighteen years, of sound mind, may make a will, which must be signed by testator, or in his presence and at his request, and also attested by two witnesses in same way. Nuncupative wills under certain strict conditions are allowed. Revocation is by usual modes of destruction or by writing executed under the formalities of a will.

WYOMING.

BANKING LAW.

(Revised by E. W. MANN, Attorney at Law, Cheyenne.)

The legislature is prohibited from passing local or special laws chartering banks, insurance companies and loan and trust companies. There is in the law a provision that shares of stock in National and other banks are subject to taxation, and certain provisions in the civil code in relation to a course of procedure for the purpose of preventing a banking corporation or its trustees or directors from making an improper disposition of the funds or other property of the bank, or violating any franchise of the corporation. All banks except National banks are required to make full statements at the end of each quarter, showing under appropriate heads and in details, their resources and liabilities. The quarters end on the last days of March, June, September, and December, in each year. The statement is required to be filed in the office of the county clerk of the county in which the bank does business and in the office of the Auditor of the State. In the case of a corporation, the report must be published in a newspaper. It is unlawful for a bank to receive deposits when insolvent.

Provision is made under the State law for the organization, management, and control of banks, banking associations, savings banks, and loan and trust companies. It is made the duty of the State Examiner to examine and report upon the condition of all banks incorporated under State law once a year.

COMMERCIAL LAW.

Acknowledgments must be made before a Judge or Clerk of a court of record, or before any County Clerk, Notary Public, Justice of the Peace, or U. S. Court Commissioner, within this State. If made out of the State, before any officer authorized by the State or Territory in which it is made, to take acknowledgments, before the Clerk of any court of record, or before any Commissioner appointed by the Governor of this State for such purpose, provided that if such acknowledgment is not made before an officer having a seal, it must have attached thereto a certificate of the Clerk of a court of record, or a County Clerk of the same place, having a seal, certifying that the officer taking the acknowledgment is authorized to take the same, and that he believes that the signature appended to the acknowledgment is genuine. Every Notary Public, Justice of the Peace, and Commissioner of Deeds for Wyoming, who takes an acknowledgment to any written instrument to be recorded in any public office in Wyoming, shall add to his certificate the date when his commission or term of office expires. Conveyances must be signed in the presence of one subscribing witness. If any deeds, mortgages, or conveyances of lands, or of any interest in lands, be executed in any foreign country, government, kingdom, or empire, such deed, mortgage, or conveyance of land may be executed according to the laws of this State, and may be acknowledged before a Consul General, Consul, or Vice-Consul of the United States; and when so acknowledged the officer taking the acknowledgment shall certify the same over his hand and official seal, or the seal of the consulate to which he is attached, if there be any such seal; and in case he has no official seal, and there be no seal of his consulate, that fact shall be stated in the certificate; and no other or further authentication shall be required to entitle such instrument to record in this State. This provision shall also apply to powers of attorney executed in any such foreign country, government, kingdom, or empire.

Assignments and Insolvency. An insolvent debtor may make an assignment in good faith to one or more assignees for satisfaction of creditors. No preference of creditors or payment of false or fraudulent claims is allowed. The assignment must be in writing, executed according to the laws of the State, and must be filed and recorded in the office of the County Clerk of the county in which the assignor resides, or has his principal place of business, if he be a non-resident of Wyoming. Within fifteen days after the execution of any such assignment the assignee shall file a certified copy of the assignment and schedule in the office of the Clerk of the District Court of the county in which the debtor resides, or does business, and shall, before entering upon the execution of his trust, make oath that he will faithfully execute the same, and shall at the same time file with the clerk a written undertaking to the State of Wyoming, with at least one sufficient surety, in a sum double the value of the property assigned, conditioned for the faithful discharge of the duties of his trust. The assignee then proceeds to close up the estate, convert the

Original from

property into money, and make distribution to creditors. The District Court exercises a supervisory power over the acts of the assignee. The Judge of the District Court may remove an assignee for good cause shown, or appoint a new assignee in case of a vacancy in the position. Any creditor accepting from the assignee his dividend shall release the assignor from all further liability for the debt on which payment was made. Claims of creditors must be presented to the assignee within six months after the date of the first publication of the notice of the appointment of the assignee. Wages due to employes of the assignor for three months prior to the date of assignment constitute preferred claims against the estate and must be paid first.

Attachments may issue against the property of persons who are non-residents of this State or are about to become non-residents or a foreign corporation; or when the defendant has absconded with intent to defraud his creditors; or has left the County of his residence to avoid the service of summons; or so conceals himself that a summons cannot be served upon him; or is about to remove his property or a part thereof out of the jurisdiction of the Court with intent to defraud his creditors; or is about to convert his property or a part thereof into money for the purpose of placing it beyond the reach of his creditors; or has property or rights in action which he conceals; or has assigned, removed, disposed of, or is about to dispose of his property or a part thereof with intent to defraud his creditors; or has fraudulently or criminally contracted the debt or incurred the obligation for which suit is about to be or has been brought. In order to obtain an attachment, the plaintiff, his agent or attorney, must make affidavit showing the nature of the plaintiff's claim, that it is just, the amount which the affiant believes that the plaintiff ought to recover, and the existence of any one of the grounds for attachment mentioned above, or that the affiant has good reason to believe and does believe that some one or more of said grounds (stating which ones) exists. The plaintiff must also give an undertaking with sufficient surety, who must be a resident property holder in the State, and be approved by the Clerk of the Court by whom the order of attachment is issued, in a sum equal to double the amount of the plaintiff's claim, to the effect that the plaintiff shall pay the defendant all damages which he may sustain by reason of the attachment if the order prove to have been wrongfully obtained. Garnishee process may be had in aid of attachment. Property is not exempt from attachment and sale on execution for the money due for its purchase price. A creditor may bring an action upon a claim before it is due and have attachment against the property of the debtor when a debtor has sold, conveyed or otherwise disposed of his property with a fraudulent intent to cheat or defraud his creditors or to hinder or delay them in the collection of their debts; or is about to make such sale, conveyance or disposition of his property with such fraudulent intent; or is about to remove his property or a material part thereof with the intent or to the effect of cheating or defrauding his creditors or hindering or delaying them in the collection of their debts; or where the defendant is about to become a non-resident of the State. An attachment authorized in case of a debt not yet due may be granted by the Court in which the action is brought or by a Judge thereof, but an affidavit and undertaking of the creditor similar to those required for attachment in case of a debt past due must be executed before the writ of attachment will be issued.

Arrest and Bail. Arrest of the defendant in civil actions may be made on grounds very similar in character to those upon which a writ of attachment may be issued against the property of the defendant. The order for arrest of the defendant shall be made by the Clerk of Court in which the action is brought, when there is filed in his office an affidavit of the plaintiff, his authorized agent or Attorney, stating the nature of the plaintiff's claim; that it is just and the amount thereof, as nearly as may be, and establishing one or more of the grounds for which an arrest is sought. The affidavit shall also contain the statement of facts claimed to justify the belief in the existence of one or more of such particulars. The order of arrest shall not be issued by the Clerk until there is executed by sufficient surety of the plaintiff a written undertaking to the effect that the plaintiff will pay to the defendant all damages not exceeding double the amount of the plaintiff's claim stated in the affidavit which he may sustain by reason of the arrest if the order prove to have been wrongfully obtained. The defendant may be released upon payment by depositing with the Sheriff, or in court, an amount equal to double the claim of the plaintiff, or by giving bail for that amount, as provided by law.

Courts. Terms and Jurisdiction. The Supreme Court holds two regular terms annually at the capital of the State. Its business is principally of an appellate character. District Court is held twice a year in each organized county, except Fremont, Sheridan, Johnson and Natrona counties, where it is held once a year. Said Court has full common law and chancery powers. It has also exclusive jurisdiction in all Probate matters and the administration, settlement and distribution of the estates of deceased persons. Justices of the Peace have jurisdiction in civil actions where the amount in controversy, exclusive of costs does not exceed \$200.

Execution may issue immediately after judgment rendered, and is returnable in sixty days from a court of record, and thirty days when issued by a Justice of the Peace. There is no stay law except in Justices' Courts, and no provision for redemption.

Exemptions. Household furniture, provisions, etc., for head of family residing with same, \$500; tools, team, implements or stock in trade of mechanic, miner or other person, kept for his trade or business, \$300; library and instruments of professional man, \$300; homestead actually occupied as such by head of family in country, 160 acres; in town, lot or lots in value \$1,500; necessary wearing apparel of every person to the value of \$150. Earnings of a judgment debtor to the amount of \$100 where necessary to the use of a family supported wholly or in part by his labor. No property is exempt for a person removing or absconding from the State, and all persons claiming exemption must be actual, *bona fide* residents of the State. No article of property is exempt from attachment or sale on execution for its purchase price.

Interest. In the absence of express contract, all moneys, claims or judgments draw interest at the rate of twelve per cent. per annum. Any rate may be agreed upon in writing; unsettled accounts draw interest after thirty days from date of last item.

Judgments are a lien on debtor's real estate within the county from the first day of the term at which judgment is entered, but judgments by confession and judgments rendered at the same term at which the action is commenced bind the debtor's real estate only from the time of entry, which lien continues for five years.

Limitations of Suits. On contracts not in writing, eight years, upon specialty or agreement in writing, five years; on all foreign judgments, or contracts made or incurred before debtor becomes a resident, within two years after he establishes residence in the State; recovery of lands, ten years. Revivor: Part payment or acknowledgment in writing.

Married Women. A married woman retains her property, both real and personal, may make a will, carry on business, sue and be sued, and retain her own earnings in the same manner as if sole. She may also vote and hold office. There is no right of dower under the State law.

Mortgages must be attested by one witness, acknowledged and recorded in the manner provided by law for the execution and recording of deeds, and are foreclosed by action at law, or by advertisement for six weeks. Chattel mortgages are subject to the same rules in regard to execution and they must be filed in the office of the county clerk of the county in which the mortgaged property is situated. They cease to be valid against creditors or subsequent purchasers in good faith, after the expiration of two months from the end of the term for which they are given, and may be foreclosed by advertisement for not less than twenty days. There is no provision for the redemption of real or personal property sold at mortgage sale.

Notes and Bills of Exchange are subject to a State law which substantially enacts the law merchant. The 1st day of January, the 22d day of February, the 30th day of May, the 4th day of July, the day appointed by the President of the United States or the Governor of the State as a fast or Thanksgiving Day, the 25th day of December and the day in the spring appointed by the Governor of the State as Arbor Day, and all days on which regular State and county elections are held are legal holidays.

Suits. There is but one form of action, and the Code of Procedure is very similar to that of Ohio.

Taxes become due and payable on the third Monday in September in each year, and the taxpayer should pay the entire amount of his taxes after that time and before the thirtieth day of November following. In all cases where the tax is not paid on the thirtieth day of November succeeding the levy thereof, the amount of the tax charged against any taxpayer so failing to pay such tax shall become delinquent from that day. A penalty of ten per cent. on the amount unpaid is added to all taxes when they become delinquent. Delinquent taxes draw interest at the rate of twenty-five per centum per annum until paid or collected by distress and sale. Taxes upon real property are made a perpetual lien thereupon, and taxes due from any person upon personal property are a lien upon any real property owned by such person. Both personal and real property may be sold for taxes in the manner provided by law. Real property may be redeemed from tax sale at any time within two years after the sale, by payment of the amount for which it was sold, thirty per cent. of the same, interest on the whole amount at the rate of twelve per cent. per annum, and subsequent taxes.

MANITOBA.

COMMERCIAL LAW.

(Revised by HOUGH & CAMPBELL, Attorneys at Law, Winnipeg.)

Acknowledgments. (See Deeds.)

Arrest. A debtor may be arrested at the instance of a creditor whose claim amounts to \$100 or upwards, upon it appearing by affidavit of the creditor or his agent, to the satisfaction of a Judge of the Superior Court, that unless such debtor be forthwith apprehended he will quit Manitoba with intent to defraud his creditors. The writ of arrest (or *capias*) may be issued before or after judgment.

Assignment and Insolvency. There is no bankrupt or insolvency law in force in this Province; but debtors may make assignments in trust for the benefit of all their creditors ratably and proportionately, and without preference or priority. Judgments recovered in due course before assignment retain their priority, notwithstanding the debtor is in insolvent circumstances.

Attachments. All property, real and personal, of debtors, or persons against whom there is a cause of action, may be attached in the following cases: (1) When such debtor or other person shall depart from Manitoba with intent to defraud his creditors or to avoid arrest or service of process; (2) when such debtor or other person, not being a resident of the Province, shall be indebted or liable to a resident of the Province upon contract or for damages; (3) when such debtor or other person, whether resident or non-resident, is about to remove any of his property out of the said Province, or has assigned or secreted any of his property therein, with intent to defeat, delay, or defraud creditors. No bonds are required to be given by plaintiff. Remedy by garnishee process given by Statute to creditors or persons having a cause of action against another, which may be had at the commencement of or at any time during the pendency of suit.

Bills of Lading and warehouse receipts are transferable by indorsement and delivery of the bill or receipt by the shipper or owner of the goods to the indorsee. By statute the consignee or indorsee is not only entitled to the property in the goods, but has vested in him all rights of suit and is subject to the same liabilities in respect of such goods as if the contract had been made with himself. Banks are permitted to take bills of lading, warehouse and

Original from

cove-keepers' receipts as security for advances made at the time, and power is given to sell the goods after notice upon default in payment.

Collaterals. There are no statutory provisions on this subject in Manitoba.

Contracts. All persons are capable of contracting except minors, persons of unsound mind, and persons deprived of civil rights. All contracts may be oral, except such as are required by statute to be in writing, namely: (1) Any agreement whereby to charge an executor or administrator upon a special promise to answer damages out of his own estate; (2) Any promise to answer for the debt, default, or miscarriage of another; (3) Any agreement made upon the consideration of marriage; (4) Any agreement for the sale of real estate or any interest in or concerning it; (5) Any agreement not to be performed within a year. This does not apply to leases for less than a year in pursuance of which the leased premises have been or shall be actually accepted by the lessee or any person claiming under him during any part of such term. No agreement for the sale of personal property of the value of \$50.00 or upwards shall be good unless the buyer shall receive part of the property sold or give something to bind the bargain or in part payment unless some memorandum in writing of such agreement is signed by the parties to be charged or their agent. Wagering contracts and claims for intoxicating liquors sold over a bar and consumed on the premises are void. All fraudulent conveyances of lands or personal property made with the intent to defeat, delay, or hinder creditors in the recovery of their claims are void as against such creditors.

Corporations are created by act of Parliament or under the general acts relating to the incorporation of joint stock companies by letters patent. Shareholders are limited in liability to the amount of their shares subscribed, and when paid in full they are discharged from any further liability. Insolvent companies are wound up and assets distributed under the provisions of the Winding-Up Act, by the Court of Queen's Bench. Foreign corporations are required to register and obtain licenses from the Provincial Government, when they shall have the same powers and privileges in Manitoba as if incorporated for the purposes mentioned in their acts or charters so far as they are within the jurisdiction and control of the Legislature of Manitoba.

Courts. The Court of Queen's Bench is the Supreme Court of Manitoba, and has an original and appellate jurisdiction both at law and in equity. There are four terms a year for the hearing of appeals from a single Judge. County Courts have jurisdiction up to \$250, in all actions except claims in the nature of seduction, breach of promise of marriage, and a few others which are confined exclusively to the Queen's Bench. An appeal lies from the County Court to the Queen's Bench in all cases where the amount in dispute is \$25 or upwards.

Deeds. Deeds of land, or of any interest in land, in this Province may be executed in the presence of a single witness. For the purpose of registration, an affidavit must be made by the witness of the due execution by the grantor, which affidavit, if made within the Province, may be made before any Commissioner for taking affidavits in the Queen's Bench, the Registrar or Deputy Registrar of the county in which the lands lie, a Judge of any of the Superior or County Courts, or any Justice of the Peace; if made in any other Province of the Dominion, it may be made before a Judge or Prothonotary of any of the Superior Courts of Law or Equity, or any Notary Public certified under his official seal; if made in any State of the Union, it may be made before the Mayor of any city or corporate town and certified under the common seal of such city or town corporate, any Consul or Vice-Consul of Her Majesty resident therein, or a Judge of a court of record or a Notary Public, certified under his official seal. No acknowledgment is necessary if the due execution of the instrument is proven as above. It is not necessary for a wife to join in a conveyance by the husband of lands held in his own name, as dower does not attach during the lifetime of the husband. The Torren's system of land transfers has lately been introduced in the Province, but registration under the act is optional with the owners. When once brought under the operation of the act, however, all subsequent transfers or conveyances must be in the manner laid down and according to the forms prescribed by the statute.

Executions issue from the Queen's Bench in all cases as of course against the goods of the judgment debtor, and bind the goods from the date of receipt by Sheriff as against the debtor or purchaser with notice, or from date of seizure as against purchaser for value without notice. Lands are bound by the registration of a certificate of judgment in the Registration Division where the lands are situated, which must be renewed every two years. Executions from the County Court remain in force for three months, and bind goods only, but may be renewed.

Exemptions. The following personal and real property are free from seizure under any writ of execution issued by any Court in the Province: (1) Beds and bedding in the common use of the judgment debtor and his family, and also household furniture and effects not exceeding in value \$500; (2) the necessary and ordinary clothing of debtor and his family; (3) twelve volumes of books, books of a professional man, one axe, one saw, one gun, six traps, and all nets and seines used by debtor; (4) the necessary food, if in possession of the debtor at the time of seizure, for himself and family for sixty days; (5) two cows, three oxen or three horses or mules, four sheep, two pigs, twelve fowl, and food for same for sixty days, the exemption as to horses to apply only in case they are used by debtor in earning his living; (6) the tools, agricultural implements and necessaries used by debtor in practice of his trade, profession or occupation to the value of \$500; (7) the articles and furniture necessary to performance of religious services; (8) the land upon which debtor and his family actually reside, or which he cultivates or uses, provided the same does not exceed 160 acres, if outside the limits of any city or town; (9) the horses, stables, barns, and fences on debtor's farm, subject as aforesaid; (10) all necessary seeds or roots for the cultivation of thirty acres; (11) the actual residence of any person, other than a farmer, in any city or town, provided the same does not exceed in value \$1,500; if it exceed the above value, before it can be sold, the said amount must be paid or

secured to the debtor. The above exemptions only apply to debts contracted since May 2, 1885. All debts due or accruing due prior to that date are governed by the Exemption Act in force at the time such debts were contracted, and which was not as liberal to the debtor as the present law.

Interest. The legal rate is six per cent. There are no usury laws in force, and parties may contract for any rate. Interest is computed on judgments from date of entry at the legal rate. Rests not allowed unless there is a contract in writing. Accounts bear interest at legal rate from date of rendering or demand for payment; liquidated demands from date due.

Judgments. Suit can be brought upon foreign judgment, but defendants can set up any defense which could have been set up in the foreign court to the original cause of action, even though he was personally served with process of the foreign court and appeared and pleaded thereto. (See Executions.)

Limitation of Suits on contract, not under seal, written or parol, within six years after cause of action accrued. Upon specialties, within twenty years after cause of action accrued. If party entitled to sue is under disability or beyond seas, then within six or twenty years from date of removal of disability, as the case may be. Recovery of real estate, ten years. Case taken out of statute, by part payment, or acknowledgment in writing.

Married Women since 14th day of May, 1875, retain all property owned by them at date of marriage, or subsequently acquired for their own separate use, free from the debts or control of husband, but such property is liable for their own separate debts and contracts, and may be sold to satisfy same. In every respect, wife is considered separate from her husband; she may carry on business in her own name, and deal with her property, and sue and be sued in the same manner as if she were unmarried. Her property is not liable for any of the ordinary or necessary expenses of the family, unless specially charged by her. A widow is entitled to dower in the real estate of her husband which he dies possessed of, and which he has not disposed of in his lifetime or by his will. In such cases the share of the wife is declared by statute to be one-third absolutely. A man may convey land to his wife, and vice versa, without the intervention of a trustee.

Mortgages are executed in the same manner as deeds and are governed by same laws as to registration in the local Registry Offices, and as to priorities. Tacking prohibited by statute. Foreclosure or sale proceedings taken in the Queen's Bench; there is no redemption after final order for foreclosure or sale. Chattel mortgages and bills of sale must be filed with the Clerk of the County Court, within whose county the goods are situate, before they have any effect as against execution creditors or purchasers for value without notice. They require to be renewed within thirty days of the expiration of two years from the date of filing, by filing a statement verified by the affidavit of the mortgagee or his agent, showing the amount due upon the mortgage and exhibiting his interest therein; unless renewed, they are absolutely void as against the creditors of the mortgagor.

Notes and Bills of Exchange. Bills of exchange, promissory notes, and checks are the ordinary forms of commercial paper used in this Province. It is not necessary that notes or bills of exchange be made payable at a bank or other particular place within the Province. Three days of grace are always allowed except when payable on demand. In case a bill or note falls due on a bank holiday (i. e. Sunday, New Year's Day, Christmas Day, Good Friday, Easter Monday, 24th May, 1st July, and Thanksgiving Day), it must be presented on the following day; when properly presented and protested, and notice given, the indorsers are liable; otherwise they are relieved. The production of the protest in any Court within the Province proves presentment and notice of dishonor without further evidence. No stamp duty is now required on commercial paper within the Dominion of Canada.

Suits. There is only one Superior Court, the Court of Queen's Bench, which has all the powers possessed by the various Courts of Law and Equity at Westminster, together with the Probate and Divorce, Admiralty and Ecclesiastical Courts of England, as they stood on the 15th day of July, 1870. Actions and suits are begun by writ of summons, or bill in equity. If defendant does not appear within time limited, judgment by default may be signed. Provision is made for substitutional service of process by publication or otherwise.

Taxes. Lands may be sold for taxes, when in arrears for one year or upwards, by the Treasurer of the municipality within which the lands lie, and may be redeemed at any time within two years from date of sale, upon payment of the sum paid by purchaser, with ten per cent. interest if redeemed within one year, or twenty per cent. interest if redeemed within two years from date of sale.

Wills. Every person over the age of 21 years, of sound mind, may dispose of his real and personal estate by will. Subsequent marriage operates as a revocation. A married woman may dispose of her separate estate by will without the consent of her husband, and may alter or revoke the same in like manner as if she were a *femme sole*. Her will must be executed in like manner as other wills. Every will other than a nuncupative will must be in writing, and every will other than a holograph will and a nuncupative will must be executed and attested as follows: 1st. It must be subscribed at the end thereof by the testator or some person in his presence and by his direction must subscribe his name thereto. 2d. The subscription must be made or acknowledged by the testator in the presence of two attesting witnesses present at the same time. 3d. The said witnesses shall attest and subscribe the will in the presence of the testator, but no form of attestation shall be necessary. A holograph will wholly written and signed by the testator himself is valid in this province. Such a will is subject to no particular form and requires no attesting witness or witnesses. Any soldier being in actual military service or any mariner or seaman being at sea, may dispose of his personal estate by parol, according to the common law. Bequests to a witness or the wife or husband of a witness are absolutely null and void, although such person is competent to prove the will. No will made outside of this province is valid as a will in Manitoba unless executed in accordance with the laws of the province.

NEW BRUNSWICK.

COMMERCIAL LAW.

(Revised by J. A. & W. VAN WART, Attorneys at Law, Fredericton.)

Acknowledgments. All conveyances of land must be in writing, and, before registration, must be acknowledged by party executing same, or proved by the oath of a subscribing witness. If acknowledged within the Province, before a Judge of the Supreme or any County Court, or a member of the Executive or Legislative Council, or any Registrar or Deputy Registrar of Deeds, or any Notary Public appointed for and resident in the Province, certified under his hand and official seal, or any Justice of the Peace in the county in which the conveyance is to be registered. If the execution be proved in the Province, it may be taken before any of the above-named officials except a Justice of the Peace. The acknowledgment or proof without the Province may be made before any Commissioner appointed for taking affidavits and administering oaths to be used in any court of record in the Province, or before any Commissioner authorized by the Lord Chancellor to administer oaths in Chancery in England, or before the Mayor or Chief Magistrate of any city, borough, municipality or town corporate, and certified under the common or corporate seal of such city, etc., or the seal of such Mayor or Chief Magistrate, or before any Judge of the Court of Queen's Bench or Common Pleas, or Baron of the Exchequer in Great Britain or Ireland, or Master in Chancery in England or Ireland, or any Judge or Lord of Session in Scotland, the handwriting of any such Judge, etc., being authenticated under the seal of Notary Public; or before a Judge of any court of supreme jurisdiction in any Colony belonging to the Crown of Great Britain and Ireland, or any dependency thereof, or before any British Minister, Ambassador, Consul, Vice-Consul, Acting-Consul, Pro-Consul, or Consular Agent of Her Majesty, exercising his functions in any foreign place, or before the Governor of a State, and certified under the hand and seal of such Minister, etc. If the conveyance be by a corporation, proof of the corporate seal shall, in all cases, be sufficient. If by a married woman, the person taking the acknowledgment must certify therein that he examined her apart from her husband, and that she acknowledged that she executed the conveyance freely and voluntarily, and without any fear, threat or compulsion of or by her husband.

Assignments and Insolvency. No insolvent laws or laws regulating assignments in trust.

Attachment. No attachment law. (See *Garnishee*.)

Courts. Justices have jurisdiction up to \$20 debt and \$8 damages. Commissioners' Courts have jurisdiction up to \$80 debt and \$30 damages. County Courts have jurisdiction up to \$400 debt and \$200 damages, from which appeal lies to Supreme Court; Probate Court for each county, from which appeal lies to the Supreme Court. Supreme Court has jurisdiction over all other matters. On appeals from County and Probate Courts, bonds with securities are required to pay costs of appeal.

Executions issue forthwith unless appeal is taken, when execution is stayed until appeal determined. No redemption of property sold under execution. Only executions issued on judgments of Supreme and County Courts affect lands.

Exemptions. The wearing apparel, bedding, kitchen utensils and tools of trade or calling, to the value of \$100, of any debtor exempt from levy or sale under execution.

Garnishee. A judgment creditor in Supreme or County Court, when judgment is \$80 and upwards, may garnishee debts due debtor, wages to the amount of \$20 being exempt.

Interest. Legal rate, six per cent. Parties may agree upon any rate. No usury law, except chartered banks can not stipulate for more than seven per cent.

Judgments in all courts of record are liens on personal property from issue of execution, and on lands from issue of execution in Supreme and County Courts. Memorials of judgments recovered in Supreme and County Courts may be registered in county where lands of debtor lie and form a lien on same for five years, and may be renewed every five years with like effect. Executions must be issued within three years on judgment in Justices' and Commissioners' Courts, and twenty years in Supreme and County Courts.

Limitations. Actions on judgments of courts of record, recognizances, bonds, or other specialty, or for recovery of real property, must be brought within twenty years of action. In assault, battery, wounding, imprisonment, or words, within two years; all other personal actions within six years.

Married Women retain their property, real or personal, owned at marriage or acquired thereafter by gift (except from husband), devise, descent or purchase, free from control of husband, and not liable for his debts. Widow takes dower, being a life estate in one-third part of the real estate of which her husband was seized at any time during coverture, and one-third of personal estate absolutely if children, and one-half if no children.

Mortgages must be proved and acknowledged in the same manner as deeds, and to be effectual against creditor and *bona fide* purchasers, must be recorded; are foreclosed by bill in equity, or power of sale contained in mortgage.

Notes and Bills of Exchange governed by Statute Dominion of Canada, simply embodying mercantile law and legal decisions in the form of statute. Notice of dishonor mailed to place at which note on its face purports to have been made is sufficient. Any promise in the form of a promissory note or bill of exchange is commercial paper, and need not be made payable at bank or any fixed place. But, if not payable at a named place, in order to bind indorsers or the drawer, the paper must be presented either personally to the maker or acceptor, or at his residence or place of business, if he has one, at maturity.

Suits are commenced by summons or *capias*. Summons in Justices' and Commissioners' Courts may be made returnable not less than six nor more than thirty days from time of issuing. In County and Supreme Courts, twenty days after service, and may be served any time within two months from issue. Service may be either personal or by leaving copy at last known place of residence with some adult member of the family, if defendant is within the Province at the time of leaving copy.

NEWFOUNDLAND.

COMMERCIAL LAW.

Arrest of Person. No *capias* or writ of arrest can issue without an order from a Judge, and in no case for debt or damage less than \$50. Detaining creditor must pay a certain amount per diem to Sheriff for maintenance of the debtor.

Assignments. *Vide Insolvency.*

Attachments. No original writ of attachment shall issue out of the Supreme Court except upon filing a sufficient affidavit, to be made by the plaintiff, or some one in his behalf, showing the defendant to be justly and truly indebted to the plaintiff in a liquidated sum of \$20 or upwards, in a legal cause of action to be therein set forth; but the Court, or Judge, may authorize the issuing of a writ of attachment where the debt or damages are unliquidated upon sufficient cause to be shown in that behalf. By order of a court or Judge, goods under attachment, of a perishable nature, or from other circumstances whereby the goods may deteriorate in value, can be sold. No property, debts, or effects regularly attached under original alias or pluries writs of attachments shall be released except by the termination of the suit in favor of the defendant, or otherwise by operation of law, until the defendant, or some one on his behalf, shall have given bond with two sufficient securities to the Sheriff in double the sum sworn to, or until he shall have deposited with the Sheriff, to abide the order of the Court in the cause, an amount equal to the sum sworn to, and a farther amount for costs, as provided for by law; such bail bond shall stand and be security to the plaintiff to abide the final judgment of the cause. Goods, debts, or effects of any defendant attached in the hands of any third person must be paid into court to abide the order, judgment, or decree thereof, and for the purpose of ascertaining such amount, the Court, or Judge thereof, may, on the application of either party to the suit, summon such third person, or, in the event of his absence from the colony, his agent, to appear before such Court, or Judge, to be examined on oath, or cause such third party to be examined on oath, under rule, order, or commission, and thereupon make order for the payment into court of such goods, debts, or effects. In all actions commenced by *capias* or attachment the plaintiff shall proceed to trial in the term first after issuing of the writ, and if issued in term during such term, and to judgment and execution within ten days after trial, unless prevented by action of defendant.

Chattel Mortgages. All lands, tenements and other hereditaments in Newfoundland and its dependencies, which by the common law are regarded as real estate, are held to be chattels real, and a mortgage can be given by a debtor upon the same, as well as stock in trade to secure any debt, which deed must be registered in the district where the property is; otherwise it will not be valid. It can also be given for future advances, but subject to the insolvency laws.

Commercial Paper. Promissory notes and bills of exchange are negotiable, and are subject to the right of set off between the same parties, but not if in the hands of third parties, obtained by them before they become due. Indorsers are not held liable if the note is not duly presented for payment when it falls due, and notice duly given to the indorser. Three days' grace is allowed on all promissory notes or bills. When a bill of exchange or promissory note falls due on a legal holiday, or a non-judicial day, then the next judicial day is the day of payment. Bills of exchange drawn in the colony on places abroad and returned protested are subject to varying rates of interest and damages to be calculated from date of protest until payment.

Corporations and Companies. Easy and inexpensive methods for the formation of and the carrying on of mining, mechanical, chemical, whaling, seal-fishing, lumbering or any mercantile business, except banking and insurance—for which special acts are necessary—are provided by statute.

Courts. A magistrate has jurisdiction in matters of debt up to \$20 (servants' and seamen's wages excepted, which can be sued for to any amount). The District Court has jurisdiction in all actions of debt up to \$40, and in wage cases to any amount; the Supreme Court to any amount. There are but two District Courts, one in St. Johns, the other in Harbor Grace, each of which exercises jurisdiction within prescribed areas. All foreigners suing out of the Supreme Court, having no property within its jurisdiction, can be called upon to give security for costs. The District Courts are open all through the year. There are but two terms of the Supreme Court in each year, one in May, another in November. Criminal law is in substance that of England.

Currency. On and after January 1, 1888, all accounts shall be kept, all moneys paid and received, all verdicts received, and judgments entered, and other legal proceedings taken, in dollars and cents.

Executions. Any party who shall have obtained judgment may issue a writ of *feri facias* under which warrants may be placed in the hands of any party having the custody or control of any moneys, goods, debts, or effects, of the defendant or plaintiff, as the case may be, and the like proceedings shall be had to examine parties as in cases of attachment. Executions, if unexecuted, shall continue in force one year; but alias and pluries writs of the like duration may be issued as long as the judgment remains

unsatisfied, or such writ of execution may at any time before its expiration be renewed by the party issuing it from date of renewal, and so on from time to time during the continuance of the renewed writ.

Exemptions from attachment, execution, distress for rent and from operation of insolvency laws: Working tools and implements of trade, fishing skiff or punt, necessary cooking apparatus, bedding and wearing apparel of the debtor and his family.

Garnishments. Inferior courts have no power to garnishee debts before or after judgment. After judgment, in the District and Sessions Courts, debts may be attached to answer the judgment. (See *Attachment, supra.*)

Insolvency. Proceedings to obtain declaration of, are commenced by petition, which may be presented by the insolvent or any creditor. After this, on a day appointed by the Supreme Court or any Judge, the parties are examined and heard, and such order made as may be considered just. Assignments, etc., by the insolvent, with a view to give an undue preference to any creditor, are, in certain circumstances, null and void. Large powers of inquiry as to property of insolvent and of punishment for fraudulent concealment of property and of other wrongful acts, are given by statute to the Court or Judge. There are several ranks of privileged creditors created by statute. Provision is made by statute for giving effect to such arrangements and compositions as may be entered into between the insolvent and his creditors. The insolvent may obtain a certificate of insolvency and discharge either by the consent of a majority in number and value of his creditors, or after hearing before the Supreme Court, without such consent. Such certificate is a release of all judgments recorded and a bar to all actions for debt or liability due or owing at time of insolvency, or to grow due under any contract previously entered into. (See *Exemptions, supra.*)

Interest. Interest at the rate of six per cent. may be charged on sums or debts due under written contract, or, if payable otherwise, then from the time when demand of payment shall have been made in writing, so as such demand shall give notice to the debtor that interest will be claimed from the date of such demand until the time of payment.

Judgments. After judgment has been entered in any court of record, a certificate of judgment may be obtained from the clerk of such court. Execution on such judgment may issue at any time within six years, after which time a writ of revivor is necessary. Judgment may be confessed in person or by attorney.

Licenses. Licenses are not required for the carrying on of any business, except for sale of malt and spirituous liquors, wines, etc.

Limitations of Actions. All actions of account between merchant and merchant, their servants or other persons, shall be commenced and sued within six years from the time of the debt falling due. And all actions for debt for rent upon an indenture demise, or of covenant, or debt upon any bond or other security, within twenty years after cause of action, but not after; and all actions of trespass, detinue, trover and replevin within six years; and assault and battery and imprisonment within four years; and actions for penalties, damages, or sums of money, by the party aggrieved, within two years; and actions upon the case for words within five years next after the words spoken, and not after. An acknowledgment in writing signed by the party, or by a part payment, will revive the debt for a further period from such signature or payment.

Married Women. A wife deserted by her husband, wherever resident in Newfoundland, may any time after apply to a Judge of the Supreme Court for an order to protect any money or property she may have received, or may acquire by her own lawful industry, against her husband and his creditors, or any person claiming under him. A married woman is by statute capable of holding property and contracting, and disposing of her separate property as a *femme sole*.

Merchandise. Provision is made by statute for punishment of fraudulent marking of.

Partnership on the limited liability principle can be formed under conditions provided by statute.

Replevin. When any goods or chattels have been unlawfully taken or detained, an action of replevin will lie, to which an action for damages for such unlawful taking or detention may be added. Previous to action brought, a bond in double the value of the goods to be replevied must be given to the Sheriff.

Special Cases. Where the parties to an action are agreed as to any question of law or fact to be decided between them, they may, after writ issued and before judgment, by consent and by order of the Court or Judge, proceed to the trial and determination of such question of law or fact without formal pleading, to be determined by the Court as a judge.

Trade Marks and Registration of Same. The act respecting Trade Marks and Registration provides for punishment of parties forging or falsely applying Trade Marks. That all marks, names, brands, labels, packages or other business devices may be registered for the exclusive use of the person registering the same. Public fees payable on application to register Trade Mark, \$20.00; for recording an assignment of same, \$1.00; registration of Trade Mark may be objected to in certain cases. Registered Trade Mark to endure without limitation of time and may be assigned.

NOVA SCOTIA.

COMMERCIAL LAW.

Attachments. The property of an absent or absconding debtor may be attached. Affidavit of the cause of action must be made, and the defendant must be absent or absconding from the Province. The amount must be due. The amount must be \$20 or upward. Judgment can be obtained in six months after attachment by proof of claim before a judge.

Bill of Sale. Every bill of sale of personal property must be filed with the Registrar of Deeds for the county where the maker resides. The same must be accompanied by an affidavit of the maker setting out that the amount therein is due and owing, and that it is not given to defraud creditors. Otherwise such bill of sale shall be void as against *bona fide* purchasers, or for the general benefit of creditors, or against execution creditors, or other persons seizing or taking possession of the same. Shall only take effect from the date of filing.

Bills of Exchange. By authority of the Dominion Legislature, the following are legal holidays and non-judicial days: Sunday, New Year's Day, Christmas Day, Good Friday. The birthday of the reigning Sovereign, or a day set out for its celebration, or any day set out for a public holiday, general fast or thanksgiving by proclamation of the Governor General.

Commercial Paper in the general acceptance of the term, means notes, bills of exchange, or drafts. It is better to have it payable at a bank; but it may be made payable in any other place, where it must be presented for payment to bind the indorsers. If not made payable anywhere, it is payable at the place where bill is dated.

Conveyances. Deeds and mortgages of land, duly executed, but not registered, shall be void against any subsequent purchaser or mortgagee for valuable consideration, who shall first register his deed or mortgage of such land. Lands devised or deeded to married women since the 19th day of April, 1884, are held by them independent of their husband, and all lands held by them previous to that will be good as against the debts of the husband contracted since that date.

Courts. County Court in Nova Scotia has jurisdiction in actions of debt, trover, etc., from \$20 up to \$400; Supreme Court, in sums from \$80 and upwards.

Depositions. In an action, the court or a judge upon sufficient cause shown by affidavit, may order a commission to issue for the taking of the deposition of witnesses residing outside the province, in such manner as the court or a judge may direct. Parties to a cause may consent in writing to examine witnesses residing abroad.

Evidence. No person in a civil suit is an incompetent witness by reason of incapacity from crime or interest, with the exception of where an action is brought by or against the executors or administrators of a deceased person.

Insolvency. The Insolvent Law of Canada has been repealed. There is at present no Insolvent Law. A party can assign his goods to a trustee in trust for the benefit of such creditors as he may select.

Interest. When no rate is specified, 6 per cent. is, by law, chargeable and recoverable. Any person may stipulate for 7 per cent. When the security only consists of personal property or the personal responsibility of the party by whom it is given, 10 per cent. interest may be charged and recovered.

Limitation of Action. Actions of assumpsit, trespass, *quare clausum fregit*, detinue, trover, replevin, debt grounded upon lending or contract, on specialty or for rent account, or upon the case, must be brought within six years next after the cause of action. Mortgages, judgments and legacies are deemed satisfied at the end of twenty years if no payment is made or no acknowledgment in writing is made in the meantime.

ONTARIO.

COMMERCIAL LAW.

(Revised by R. E. KINGSFORD, of Toronto, Barrister.)

Actions. All actions are commenced by a writ of summons indorsed with a statement of the nature of the claim made, or the relief or remedy sought. If the claim is for a liquidated demand in money arising out of contract, express or implied, for example, on a bill of exchange, promissory note, check, account, or any simple contract debt, the writ is *specialty indorsed* with the particulars of the claim or amount sought to be recovered. A defendant, if served within Ontario, must enter an appearance within ten days after service, inclusive of the day of service. If served out of Ontario, further time is given, according to distance. If the writ is specially indorsed, and the defendant does not appear, judgment may be signed in default of appearance without any further proof of claim, and execution issued forthwith. Should the defendant enter an appearance, pleadings will have to be served, and the action take its ordinary course. If the defendant in a specially indorsed writ appears merely for time, the plaintiff may at once give notice and apply for final judgment, after filing an affidavit setting forth the facts, made by himself or any other person, or agent, who can swear positively to the debt or cause of action, verifying the cause of action, and stating that in his belief there is no defence, and that the same was entered only for the purpose of delay. The Court, upon such application, has power to order immediate and final judgment to be signed. **Inferior jurisdiction* is exercised by the Division or County Courts. Division Courts are held in the different counties throughout the Province, and have jurisdiction in: 1. All *personal* actions where the amount claimed does not exceed \$60, or \$100 when agreed to by the parties. 2. Claims and demands of debt, account

* Attorneys in the States sending claims for collection to Ontario are recommended to read carefully this summary of the jurisdiction of the Ontario Courts over claims in Ontario, as mistakes and disputes constantly arise, owing to American attorneys not being aware that the costs on claims vary with the amount of the claim. In Division Courts *no costs at all are allowed, only court disbursements*, and, therefore, litigant in that court, even if successful, has to pay his own costs.

or breach of contract, or covenant or money demand where the amount or balance claimed does not exceed \$100. 3. Claims for debt or money demand not exceeding \$200, where the amount, or original amount, is ascertained by the signature of the defendant or person whom, as executor or administrator, he represents. *No costs are recoverable in the Division Court as a general rule, only court fees, which are not large.* County Courts have jurisdiction in: 1st. All personal actions where debt or damages claimed do not exceed \$200; 2d. In all suits relating to debt covenant, and contract to \$400, if ascertained by act of the parties or signature of the defendant. They can not try these cases if title to land, or the validity of any devise or bequest is in question, or in actions for libel or slander, or crim. con. or seduction. In all these latter cases and in all actions above the limit of the County Court, the High Court of Justice for Ontario has jurisdiction. If suits are brought in the wrong court, the parties are deprived of costs. Priority of judgments is regulated only by the time of the delivery of the writ of execution into the hands of the Sheriff, and not by the time of obtaining the judgments, and judgment creditors share equally with other creditors, gaining no priority or advantage, except that their costs are added to their claim. (*See Assignments.*)

Affidavits. Affidavits made in the United States or any foreign country, to be used in any of the courts in Ontario, may be made before a Notary Public, certified under his hand and official seal, or before a Commissioner residing in such foreign country, duly authorized to take affidavits, etc., to be used in Ontario.

Affirmations. Any oath, affidavit, affirmation, or solemn declaration in attestation of the execution of any written instrument or deed, or allegations of fact, or of any account rendered may be made before any Judge, Notary Public, or Commissioner. Accounts and statements are usually verified in this way when required to be sent in to Assignees, Trustees, Executors and Administrators of estates.

Aliens. Every kind of real and personal property may now be held, bought and sold by aliens as freely as though they were natural-born subjects. Although not resident in Ontario, they may be sued if they are served with notice of process. Any person not resident within the Province who brings an action in its courts, is bound, upon application made therefor, to give to the opposite party security for the costs which may be incurred in the action, generally to the extent of \$400. In the County Courts, security is required to the extent of \$200. In cases where debt is ascertained by the signature of the defendant, the security required is \$50. (*See also Judgments.*)

Arrest. One foreigner can not follow another into Ontario and have him arrested for a debt contracted abroad, but, any creditor whose claim is \$100 or over may obtain the arrest of his debtor upon showing by affidavit that the debtor is about to leave the Province, with intent to defraud his creditors. A married woman is not liable to arrest for debt.

Assignments. There is no Insolvent or Bankruptcy Act in force in Canada now. In Ontario voluntary assignments by debtors do not now supersede judgments. Until lately, it was held that they did. Now it is held they do not. Sheriffs on seizure and sale, divide the proceeds of sale among all creditors (including judgment creditors) ratably. A preference made by a debtor which has the effect of defeating any creditor, is presumed to be fraudulent and void if attacked within sixty days, or if followed by an assignment within sixty days. If attacked after sixty days, the intent to prefer must be proved. If proved, the transaction is set aside, unless it is proved to have been made under pressure by the preferred creditor.

Attachment. A resident in Ontario who, being indebted to any other person, departs or absconds from this Province with intent to defraud his creditors, or to avoid arrest or service of process, and at the time of his so departing is possessed to his own use of any real or personal property, is deemed an absconding debtor, and his property may be seized and taken by a writ of attachment, for which a Judge's order must be obtained upon affidavits setting forth the necessary facts.

Bills of Exchange and Promissory Notes. No stamp duty is required to be paid on bills, notes or checks. Three days of grace are allowed. In case a bill or note falls due and is payable on a legal holiday, it must be presented the day after such holiday. The legal holidays as fixed by statute, in all matters relating to bills or notes, are Sundays, New Year's Day, Good Friday, Easter Monday, Christmas Day, the birthday of the Sovereign (24th of May), Dominion Day (1st of July), and any special days appointed by proclamation for public holidays, fasting, or thanksgiving. The legal rate of interest is six per cent. If a bill is dishonored abroad, in addition to interest and expenses of noting and protest, holder is entitled to re-exchange with interest to date of payment.

Bills of Sale and Chattel Mortgages must be filed in the office of the Clerk of the County Court of the county where the goods are situated, within five days from the date of execution. Renewal statements filed during the last month of each year of their currency, are required to preserve their effect.

Claims against Estates of Deceased Persons. Where a person dies intestate, letters of administration may be granted by the Surrogate Court. In administering the estate, no difference is made as to judgment or other debts; all are to be paid ratably. Claims are enforced by suing the executor or administrator. Wills are proved in the Surrogate Court of the county where the testator had his last place of abode. Real and personal property both devolve upon an administrator. Security is required before administration granted. (*See Descent.*)

Commissions are granted by order of a Judge for taking the depositions of a witness in a foreign country, or when dangerously ill, though resident in the Province, or about to quit the Province. The Court gives full directions as to the execution of the Commission.

Corporations are created by Act of Parliament, special charter, or under the general acts relating to the incorporation of joint stock companies by Letters Patent. Shareholders are liable only to the amount of their shares, and when these shares are paid in full, they are discharged from any further liability, except as to debts due to the company's servants. Provision has been made for the winding up of joint stock companies.

Costs, Security for. (*See Aliens.*)

Courts—COUNTY, DIVISION and HIGH COURT OF JUSTICE. (*See Actions.*)

Deeds. All deeds should be in duplicate, so that one may be registered while the other is returned certified. Common forms of deeds may be used, but the statute provides a short form, with covenants and bar of dower. All deeds should be under seal. A wafer, sealing wax or other adhesive substance will answer for a seal, but a scroll is not a seal. In conveying the estate of a married woman it is usual, although not absolutely necessary for safety, that the husband should be a party to the deed, but no acknowledgment or separate examination of the wife, apart from her husband, is required. Proof of all deeds, mortgages, etc., for registration, is made by an affidavit by the subscribing witness, *in any foreign country*—before the Mayor of any city, borough or town corporate certified under the common seal, or before any British Consul or Vice-Consul resident in such country, or before a Judge of a court of record, or a Notary Public, certified under his official seal. When different parties sign before different subscribing witnesses, each such witness must make a similar affidavit as to the execution by the parties whose execution he attests, or the deed can not be registered. One credible person, male or female, who can read and write, will suffice as a witness. (*See Lands Titles.*)

Descent. Real estate descends like personalty. A widow is entitled to elect whether she will take her dower or a distributive share of the estate, according to the rules of devolution of personal estate.

Distress. (*See Exemptions.*)

Evidence. In all civil proceedings no person is disqualified as a witness on the ground of interest, as a party or otherwise. Husbands and wives are competent and compellable witnesses, save as to communications made during their marriage and proceedings consequent upon adultery. In actions by or against representatives of any deceased person, or by or against a lunatic, an opposite or interested party to the suit can not have judgment upon his own evidence as to any matter occurring before the death, unless such evidence is corroborated. An affirmation or declaration may be made by a witness if the presiding judge be satisfied that an oath would not in conscience have any binding effect.

Exemptions. The following goods and chattels of a judgment debtor are exempt from seizure under writs of execution, or distress warrants for rent or taxes: The bed and bedding, and the necessary and ordinary wearing apparel of the debtor and his family; certain chattels not exceeding in value \$150; necessary fuel and food, not exceeding in value the sum of \$40; stock in all not to exceed in value \$75, and food therefor for thirty days; tools and implements of, or chattels ordinarily used in, the debtor's occupation, to the value of \$100; bees reared and kept in hives to the extent of fifteen hives; lands acquired under the free grant and homestead act are exempt from seizure and sale for debt for a period of twenty years from location of land being made by locatee or his widow, heirs or devisees.

Hire Receipts and Sale Notes. Except in the case of household furniture, to be valid as against subsequent purchasers or mortgagees without notice, these documents must be registered like a chattel mortgage with the clerk of the County Court. If the document is not registered the article must be stamped with the name and address of the manufacturer, so that an intending purchaser may ascertain whether the article is paid for. If there is a seizure made by the vendor for breach of condition on a conditional sale the vendor must allow twenty days before a re-sale, during which time the purchaser may redeem.

Insolvency. There is no insolvency act in force. (*See Assignments.*)

Interest. Six per cent is the legal rate. Banks can not recover more than 7 per cent. on mortgages. Parties may agree between themselves as to any rate of interest; but, where no rate has been agreed upon, the legal rate only is recoverable.

Judgments. *Foreign judgments* are all judgments recovered against any person outside of the Province, even though it be in any other Province of the Dominion. A defendant sued in the courts of the Province on a foreign judgment of a court, to the jurisdiction of which he was subject, can not set up as a defence thereto any defence which he set up, or might have set up, to the original action if he was personally served with the process in such original action, or appeared or pleaded thereto. In the case of actions on judgments obtained in the Province of Quebec, if the service was not personal any defence may be set up which might have been made to the original judgment.

Lands Titles System. Lands in Ontario may be within the "Lands Titles System" of Transfer, which is by certificate instead of deed. A mortgage is called a *charge*. Each holder of land gets a certificate from the office for the county—on that certificate are endorsed all transfers. Where papers are sent to the States for execution, under this system, special directions will be required.

Limitations. All actions upon simple contracts, notes, bills, accounts, and all instruments not under seal and money demands, must be commenced and brought within six years from the time the cause of action arose or accrues. When the plaintiff is under any disability, such as infancy, coverture, or lunacy, the statute of limitations begins to run from the removal of the disability. All actions to recover land and real estate must be brought and commenced within ten years from the time when the right of action first accrued.

Married Women. A married woman can acquire, hold, and dispose of, by will or otherwise, any real or personal property, including any property acquired by her in any employment which she carries on separately from her husband, or by the exercise of any literary, artistic or scientific skill, as her separate property, and as though she were a *femme sole*, without the intervention of any trustee. She may enter into any contract, and be sued either in contract or tort, and be liable as if a *femme sole*, and her husband need not be joined as a party. All damages and costs recovered against her in an action shall be payable out of her separate estate. No husband or wife shall be entitled to sue the other for tort in a civil action. A married woman may devise, bequeath her property by will. A wife is entitled to dower on

Original from

of all the lands of which her husband was seized at and after their marriage in which she has not barred her dower. The husband can only be tenant by curtesy out of such lands as his wife may die seized or possessed of. Woman attains her majority at twenty-one years.

Mechanics' Liens. Every mechanic, machinist, laborer, builder, contractor or other person doing work upon, or furnishing materials to be used in the construction of, any building, or erecting, furnishing or placing machinery on or in connection with any building, has a lien for the price of the work, on such building, and the lands therewith, to the extent of the owner's interest. A statement of claim must be filed in the Registry Office of the county where the lands lie, within thirty days of the completion of the work, or the supplying of the materials, else the lien will cease. Proceedings to enforce the lien must be taken within ninety days from the completion of the work, in the County or Division Court, or in the High Court of Justice, according to the amount claimed. Mechanics are entitled to a lien upon a chattel for work done thereon, and may sell the chattel after three months if the work is not paid for. If the chattel is delivered to the owner, the lien ceases.

Mortgages on Lands should be executed and proved like deeds. See *Deeds*. A mortgage must be registered in the Registry Office of the county within which the lands are situated. It may be discharged by a certificate signed by the mortgagee, or his assignee, or representative entitled to receive the money, and such certificate should be registered in same Registry Office. After maturity the mortgagee is not entitled to charge the mortgagor any interest by way of bonus for the privilege of paying off the mortgage. The execution of a certificate is proved in the same manner as a deed or a mortgage. The usual remedies of a mortgagee are sale or foreclosure, or action upon the covenant.

Partnerships. All partnerships, for trading, mining or manufacturing purposes, must be registered in the County Registry Office. The declaration must set out the full names, occupation and residence of the partners, the business they propose to carry on, and for how long their partnership has existed or is to exist. This declaration must be filed within six months after the formation of the partnership. A penalty of \$100 may be imposed in case of non-compliance with the act. A similar declaration shall be filed when and so often as any change in the partnership takes place.

Preferences. (See *Assignments*.)

Promissory Notes. (See *Bills of Exchange*.)

Proof of Claims. (See *Affirmations*.)

Taxes. The rate for the year is fixed by the council of each municipal corporation, and lands are charged therewith. Lands may be sold for taxes when they are in arrears for three years. The owner may redeem within one year after sale.

Wills must be in writing, and signed, but need not be sealed, by the testator or by some person in his presence and by his direction; such signature to be made or acknowledged by the testator, in the presence of two witnesses, both present at the same time, who shall sign their names as such witnesses, in the presence of the testator. A common form of attestation clause is as follows:

"Signed and declared by the above-named A. B., as and for his last will and testament, in the presence of us, both present at the same time, who, at his request and in his presence, have hereunto subscribed our names as witnesses."

"C. D., of Toronto, Clerk,"

"E. F., of Hamilton, Merchant."

(Signed) "A. B."

The gift to a witness, or to the husband or wife of a witness, is invalid. A will to pass personal property need only be in conformity with the law of the country in which the testator had his domicile. To pass real estate, however, the will must be valid and effectual for such purpose according to the law of the country where the real estate is situated. A will, no matter how long executed before the death of the testator, is construed as if it had been executed immediately before his death. Hence, property acquired between the date of the will and the time of the testator's death may pass by the will.

PRINCE EDWARD ISLAND.

COMMERCIAL LAW.

Assignment. An assignment made by any debtor after the commencement of a suit against him of any property whatsoever for the purpose of defrauding the plaintiff in such suit, or of giving any undue preference to any other plaintiff or creditor, will deprive him of the relief referred to, under the head of insolvent or indigent debtors.

Chattel Mortgages may be given by a debtor upon all his goods, chattels and stock in trade, to secure any debt, and must be filed with the prothonotary of the Supreme Court in the county where the mortgagor resides, otherwise it will only be valid as against the maker himself. If given to secure future advances, it will have the same effect as a mortgage on real estate to secure similar advances.

Commercial Paper need not be payable at a bank or other particular place unless so desired, and specified on the face of the note or bill. Promissory notes and bills of exchange are negotiable, and are subject to the right of set-off between the same parties, but not if indorsed for value to third parties before they become due. Indorsers are not liable if the note is not duly presented for payment when it falls due, and notice duly given to the indorser. No protest is necessary on inland bills and notes, but is on foreign bills in order to make indorsers and drawers of bills liable. Three days' grace is allowed on all promissory notes or bills.

Courts. The City Court of the city of Charlottetown, over which the stipendiary magistrate presides, has a limited jurisdiction extending only to persons living within the city limits, and to amounts

under \$80. The County Courts have jurisdiction in all cases of debt, detinue, trover, etc., where the debt or damages do not exceed \$150. They have no jurisdiction in cases where the title to land is in dispute. They meet in the months of March, August, October, and December. The Supreme Court has jurisdiction in all cases for all sums over \$32; and for amounts under \$65 attorneys are only allowed one-third of the usual fees. All foreigners suing in the Supreme Courts may be compelled to give security for costs, and the same practice applies to the County Court.

Execution may issue in the County Court after a lapse of ten days from the recovery of judgment against the goods and chattels of the debtor, and in default thereof, where the debt was contracted previous to January 1st, 1880, against his body. For debts contracted since that date, an affidavit showing good and probable cause for believing that the debtor is about to quit the Province to defraud his creditors generally, or the plaintiff in particular, or that he has made some secret or fraudulent conveyance of his goods to prevent their being taken in execution, is necessary before an execution issues to arrest the debtor. Executions can not issue after two years, without affidavit of amount due on judgment, and not at all after the lapse of ten years from the date of judgment, or the return of the last execution. In the Supreme Court executions may issue immediately after judgment, where it is a confession, and ten days after verdict where adverse, at any time within ten years, against the goods, chattels or lands of defendant, and for debts contracted previous to January 1st, 1880, against his person. For debts contracted since that date, an affidavit similar to that required in the County Court is necessary before a debtor's body can be arrested on final executions. Executions in County Court are made returnable in thirty days, and in Supreme Court at any time after thirty days from the issue thereof. Lands sold under execution must be advertised for at least six months in the *Royal Gazette*, and also by handbills.

Exemption. The wearing apparel and bedding of the judgment debtor, the tools and implements of his trade, one cooking stove and one cow, in all amounting to the value of \$50, are exempt from seizure under a County Court execution. In the Supreme Court the necessary wearing apparel and bedding of the debtor and his family, and the tools or instruments of his trade or calling, \$16.22 in money and his last cow, are exempted from execution.

Garnishments. Debts due to debtors can be attached in either the Supreme or County Courts before or after judgment. In case, however, a creditor fails to obtain judgment, the attachment proceedings will abate.

Interest. The legal rate of interest is six per cent. where no other rate of interest is specified; a contract, however, may be made for the payment of any rate of interest whatever, and whether secured by real estate, personal property or personal responsibility. Interest will be allowed on debts or sums payable by virtue of some written instrument at a certain time, such as bills, promissory notes, etc.; or if payable otherwise, then upon proving some agreement, express or implied, to pay interest.

Judgments. When judgment has been recovered in the Supreme Court, a minute or memorial thereof may be filed with the prothonotary of the court, and the judgment will, from the date of the filing of such minute, bind the lands of the judgment debtor, wherever situate in the Province. Execution may issue on such judgment at any time within ten years, after which a writ of revivor or suggestion is necessary. A judgment with a minute thereof filed ranks as a mortgage in binding the lands of the debtor, and will take preference to a mortgage subsequently recorded. Judgments may be recovered in this court both adversely and by confession, and also without suit, by warrant of attorney being given by the debtor, on which judgment is entered. Judgments of this latter description are sometimes taken as securities for loans in preference to mortgages. Judgments in the County Courts do not affect lands.

Licenses are not required for the carrying on of any business, except for the sale of spirituous liquors, carts, trucks, and peddlers, and these are, in some instances, granted by the incorporated towns, and in others by the Provincial government.

Limitations. On simple contracts, suits must be commenced within six years from the time the debt falls due, or from the date of the last payment on account of such debt, or should the debtor at the time the debt becomes due be out of this Province, then within a like time from the date of his return, or the date of the last payment by him. A promise or acknowledgment in writing, signed by the debtor, is sufficient to take simple contracts out of the statute, and it will then begin to run from the date of such written promise or acknowledgment. Actions to recover any sums of money secured by any mortgage, judgment or lien, or otherwise, chargeable out of any land, must be brought within twenty years next after a present right to receive the same shall have accrued to some person capable of giving a discharge for the same, unless in the mean time some part of the principal money or interest thereon shall have been paid, or some acknowledgment of the right thereto shall have been given in writing by the person by whom the same shall be payable, or his agent, and in such case within twenty years from the last of such payments or acknowledgments.

Married Women. Personal property owned by the wife at the time of marriage or acquired by her afterward (unless trusted for her sole benefit), becomes the property of the husband, he being liable for debts due by her at the time of marriage. She may hold real estate in her own name, her husband receiving the profits during their joint lives, and, in certain cases, during his life, but she can not convey it without the consent of her husband.

Partnerships may be formed by two or more persons for the transaction of any mercantile, mechanical, or manufacturing business. Partners can not limit their liability to the public for debts contracted with the partnership. A certificate of the formation of such partnership should be filed with the prothonotary of the Supreme Court, giving the date of such formation, names and residences of the parties, and the nature of the business to be carried on. Until this is done, no suit or action can be brought in court in this Province, for any debt due such partnership. This Province has now one general incorporation Act, and a company desirous of obtaining a charter apply by memorial to the Lieutenant-Governor in Council stating the object, etc., of the company, and a charter to be granted for the purposes asked.

Probate. When a person dies his personal estate becomes vested in his executor, if he has made a will and appointed one, and if he has not appointed an executor, in the administrator appointed by the Surrogate, and is liable to the payment of the debts of such deceased person. His real estate, in case of a deficiency of personal estate, is also liable to be applied in payment of debts, subject to any judgment or mortgage lien affecting such real estate. Claims against the deceased must be attested by the creditor, or, in his absence from the Province, by his agent, before the Judge of Probate, or Register, or Justice of the Peace, by an affidavit in the form prescribed by the statute. Claims should be proved against the estate within eight months after letters testamentary have been taken out, as after that time the executor, on being sued, may plead specially that he had no notice of the debt, and that he has applied the assets in his hands in payment of the debts proved against the estate and of which he had notice.

Replevin. When goods or chattels have been unlawfully distrained for rent, or taken or detained, an action of replevin will lie, by which the goods are returned by the Sheriff to the party from whom they have been taken, on his entering into a bond with sureties that he will prosecute for damages. This action is seldom adopted, except in cases of illegal distraint for rent.

QUEBEC.

COMMERCIAL LAW.

(Revised by J. P. COOKE, M. P. P., Attorney at Law, Montreal.)

Affidavits taken within the Province, to be used in its Courts, must be sworn to before some officer of the Court. Commissioners of the Superior Court can receive affidavits for use in the Circuit Court. Like force is given to all foreign affidavits taken before a Notary Public, under his hand and official seal, or before the Mayor or Chief Magistrate of any city, borough, or incorporated town in Great Britain, the colonies, or any foreign country, under their hand and official seal, or before any Consul or Consular Agent of Her Majesty in a foreign country to which he is appointed.

Aliens have a right to acquire and transmit property in the same manner as British subjects. Although not resident in Canada, they may sue or be sued in its Courts for the fulfillment of obligations contracted toward or by them, even in foreign countries, provided a legal service can be effected upon them within the Province. Every person not resident in the Province is bound, if thereto required by the opposite party, to give security for costs in any suit or proceeding which he institutes in its Courts, and to file a power of attorney authorizing the taking of such action. They can not, however, hold any public office nor exercise the franchise.

Assignment and Insolvency. No abandonment of property can be made in the absence of *capias* or a demand of assignment. Every trader who has ceased his payments may be required, by any unsecured creditor, for a sum of \$200 or upwards, or any creditor holding a judgment for \$80 or upwards, to make an abandonment of his property for the benefit of his creditors in the office of the Prothonotary of the Court for the district within which the said debtor resides or the *capias* issued. He must give notice of this abandonment to his creditors. The Court appoints a curator, after taking the advice of the creditors, at a meeting called for that purpose, (in the event of the majority of the creditors in amount and number agreeing, the court is bound to appoint their nominee, but if they do not, the court has the right to appoint another), and the property is sold for the benefit of the creditors, amongst whom its proceeds are divided ratably, after payment of privileged claims. This abandonment only discharges the debtor to the extent of the amount which his creditors have received on account of their claims. The winding up of insolvent banks, insurance companies and trading corporations is regulated by a Dominion Statute of 1882 and amendments.

Attachment and Capias. A person may, even before judgment, upon affidavit, seize the property of his debtor, whether in the hands of such debtor himself, or of third parties, or arrest his person, on the ground of secretion of property, absconding with intent to defraud, and, in the case of insolvency, of his refusing to assign. A *capias* for the arrest of a debtor can not be issued for a sum less than \$40, but his property may be seized for a debt of \$5. To justify a *capias*, the debt must be a personal one, and contracted within the Province. Women, priests and septuagenarians are not liable to be *capias*ed. Bills of lading and warehouse receipts are by statute made transferable by indorsement and delivery, but they can not be transferred as security for an antecedent indebtedness.

Commissions for the examination of witnesses outside of the Province, or within the Province at a distance from the place where the court is held, or in case of the illness of a witness, or of his probable absence from the country at the time of trial, are granted upon application to the Court. Such commissions contain full instructions as to their execution.

Courts. The Circuit Court has original jurisdiction where the amount demanded is less than \$100; the Superior Court where it is that sum or upwards. All judgments rendered by the latter Court are susceptible of review and appeal. The Superior Court sits once a month in the *Chef-lieu* of a district only; the Circuit Court sits once a month in the *Chef-lieu*, and three times a year in the country parts. A defendant may be summoned either before the Court of his domicile, or the place where the demand was served upon him personally, or where the right of action originated. Real actions are brought before the Court of the place where the object in dispute is situated. Suits are instituted by means of a writ ordering the defendant to appear on a certain day, copy of which, with statement of demand, is served upon him. The writ is obtained on written application and payment of proper fee. A system of summary procedure has been established in commercial matters. An appeal can

be taken to the Court of Review and Court of Queen's Bench in all cases over \$100. An appeal can also be had from the Court of Queen's Bench to the Supreme Court of Canada in all cases over \$2,000; and to Her Majesty's Privy Council, in England, in all cases over \$2,500.

Deeds, Mortgages, and Registration. Mortgages and deeds affecting the title of lands held under the French system must be passed before a Notary Public. Where the lands are held in free and common socage, such deeds may be passed, either before a Notary, or before two witnesses, one of whom makes affidavit to the signatures, in order to prove their authenticity. To take effect from the time they were made, they must be registered within thirty days; otherwise, they do not take effect, as regards third parties, until registered. Mortgages can only be granted on real estate; they can not be given on movables or chattels; effects may, however, be pledged by being placed in the hands of a creditor to secure his debt. Judgments give liens only on the real property against which they are registered.

Evidence. The testimony of one witness is sufficient in all cases where proof by testimony is admitted. A party can not be admitted as a witness in his own behalf, except in commercial cases, where he can testify. Husband and wife can neither testify for nor against each other, except where they are separated as to property, and one, as agent, has administered property belonging to the other, in which case the agent may be examined in relation to facts connected with such administration, but only as a witness for the adverse party.

Execution may, in all cases, be issued after fifteen days from the rendering of the judgment. In summary matters the delay is only eight days. It may, however, be taken before the expiration of these delays upon causes which would justify a seizure before judgment. Except for taxes, executions can not issue against immovables unless the judgment is for a sum amounting to or exceeding \$40, without costs.

Exemptions are very few. They include a portion of the furniture of the debtor, absolutely necessary for the use of himself and his family, with food and fuel for thirty days, and ordinary and necessary wearing apparel; a sewing machine is also allowed, and in the case of farmers, two draft horses or oxen, one cow, two pigs, four sheep, with food for thirty days. Books of account, titles of debt, alimentary allowances, wages and salaries not yet due, can not be seized.

Foreign Judgments. In any suit brought upon a judgment rendered out of the Dominion of Canada, any defense set up, or that might have been set up, to the original suit may be pleaded to the suit upon such judgment; but, if the first judgment was rendered in any of the other Provinces of the Dominion in a suit in which the defendant had been served personally, or had appeared, no defense that might have been set up to the original suit can be pleaded to the suit on such judgment. In suits against corporations, service upon the proper officers, according to their charter or to law, is held to be personal service. If the service have not been personal, or if in the absence of personal service the defendant have not appeared, any defense which might have been set up to the original suit may be made and pleaded to the suit upon such judgment.

Husband and Wife. In default of an antenuptial contract of marriage, which must be in notarial form, there takes place between the consorts, by the mere operation of law, a community of the following property: (1) Of all movable property, either possessed by them before marriage or falling to them, or acquired after marriage, including the revenues of their private property; (2) of all the immovables they acquire during marriage, except such as fall to them by succession or equivalent title. Of this community the husband has the sole control. Immovable property belonging to either consort before marriage, or falling to him by direct succession during marriage, remains the private property of such consort, subject as regards the property of the husband, to the right of dower, preserved by registration, consisting of the usufruct to the wife, and the ownership to the children, of one-half thereof. This right of dower may be abandoned by the wife. The husband administers the private property of his wife, but can not alienate her immovables without her consent. In marriage contracts all kinds of agreements derogating from these rules may be made, such as complete separation of property, gift of future property, etc. Where the consorts are separated as to property the wife retains the entire administration of her property, movable and immovable, but she can not alienate her immovables without the special consent of her husband or the authorization of a Judge.

Interest. Any interest may be charged which the parties may lawfully agree upon. If there is no agreement, the law fixes the rate of interest at six per cent. Corporations, except home and British insurance companies, and those constituted for religious, educational, and charitable purposes, in the Provinces of Ontario and Quebec, can not receive more than six per cent., and those mentioned more than eight, under severe penalties. Banks are not subject to any penalties for usury, but can not exact more than seven per cent.

Liens and Privileges. In cases of insolvency, the unpaid vendor of a thing has two privileged rights: A right to revendicate it, and a right to preference on the proceeds of the sale; but these rights must be exercised within thirty days from the date of delivery. Sale is complete by the consent alone of the parties, although no delivery be made. The seller is not obliged to deliver the thing if the buyer does not pay the price, unless a term has been granted for the payment of it, nor, in the latter case, if the purchaser, since the sale, has become insolvent. A promise of sale, accompanied by actual delivery, is equivalent to a sale. The right of stoppage *in transitu* may be exercised when the goods are in possession of third parties as agents for their delivery.

Limitation of Actions. Judgments and registered titles to and claims against real property can only be prescribed by thirty years, but possession as proprietor, and in good faith, of an immovable for ten years, covers defects of title. Actions on bills of exchange, promissory notes, store accounts, and generally all claims of a commercial nature, are prescribable by five years. There are also certain short prescriptive periods of one, two, and three years.

Notes and Bills of Exchange. Commercial paper includes negotiable instruments for the payment of a specific sum of money, payable absolutely and at all events. It is transferable by indorsement and delivery, or, when payable to bearer, by delivery either with or without indorsement. When a particular place of payment is mentioned, not necessarily a bank, presentment must be made there. If payable at a bank, presentment may be made either within or after usual banking hours. When payable generally, *i. e.*, when no place of payment is mentioned in the instrument, presentment must be made to the party primarily liable, either personally, or at his domicile, or office, or usual place of business. If he be dead, or absent from the Province, presentment may be made at his last known residence or place of business. In the case of insolvency, all current paper of the insolvent becomes immediately due and exigible. The place of payment of a draft may be fixed by the acceptor in his acceptance. The commercial law of Quebec is founded on the old English law. Three days of grace are allowed on bills and notes payable with a term or at sight, but no grace is allowed where they are payable on demand or on a fixed day. If the day on which they would otherwise become due is a legal holiday, the delay is of right extended to the next day. Payment must include interest from the last day of grace and all expenses of noting and protesting and notices legally incurred. In the case of bills payable elsewhere than in Canada and Newfoundland, damages are also allowed equal the costs of exchange and re-exchange. Indorsers and other parties secondarily liable are only held by protest and notice.

Partnerships must be registered in the office of the County Registrar and Prothonotary of the Superior Court. The same rule applies to joint-stock companies and to persons carrying on business alone under a name other than their own. The laws applicable to commercial partnerships are chiefly derived from the English commercial law. The property of the partnership is to be applied to the payment of the creditors of the firm, in preference to the separate creditors of any partner; and in case such property be found insufficient for the purpose, the private property of the partners or of any one of them is also to be applied to the payment of the debts of the partnership; but only after the payment out of it of the separate creditors of such partners or partner respectively. Partnerships may be limited or general. If limited, the following declaration must be registered: 1st. The name or firm of the

partnership; 2d. The general nature of the business to be carried on; 3d. The names of all the general and special partners, distinguishing which are general and which special, and their usual place of residence; 4th. The amount of capital contributed by each special partner; 5th. The period at which the partnership commenced and that of its termination. The general partners in a limited partnership are jointly and severally liable for the debts of the partnership, but the special partners are only liable to the extent of the amount they contributed. If the above statement is not registered all the partners are jointly and severally liable. In general partnerships all the partners are jointly and severally liable. An agreement by which one of the partners shall not be liable for the losses of the partnership is null as toward third parties, but binding between the partners themselves. If a partnership be dissolved, or a judicial demand be made for such dissolution, the Court or a Judge, upon demand of one of the partners, after notice given to the others, has power to appoint one or more liquidators. The liquidator must give the security fixed by the Court or Judge and be sworn to faithfully perform his duties before he can act. He is subject to the summary jurisdiction of the Court or Judge. He liquidates the business with the consent of the partners, or in default of such consent, with the approval of the Court or Judge after notice to the partners.

Wills. Wills may be made in three different forms: 1st. In authentic form, to wit, proved before a Notary Public and two witnesses, or before two Notaries Public. The original will, made in authentic form, remains with the Notary, who furnishes certified copies thereof; 2d. In holograph form, to wit, they must be wholly written and copied by the testator, and require no witnesses; 3d. In the form derived from the laws of England, to wit, before two witnesses, who attest and sign the will immediately in presence of the testator and at his request. Wills made in authentic form need no probate, but those made in the other forms must be probated. Any one can dispose absolutely, and without restriction, of the whole of his property, movable or immovable, by will. Executors appointed under a will have possession of the estate of the testator, and are allowed a year and a day to carry out the provisions of the will. They can be given the most absolute powers by the testator, and their seizin may be extended beyond the year [and the day allowed.

WILLIS S. HETRICH,

ADMITTED IN 1880.
ALWAYS RESIDED HERE.

ATTORNEY AT LAW.

SPECIALTIES:

REAL ESTATE LAW.
COMMERCIAL LAW.
PROBATE PRACTICE.
COLLECTIONS AND REPORTS.

44 CENTRE SQUARE
(NORTHAMPTON COUNTY), EASTON, PA.

General Practice.

EASTON IS THE COUNTY SEAT. Other main towns in this County are: Bangor, Bath, Bethlehem, Chapman, East Bangor, Freemansburg, Glendon, Hellertown, Nazareth, Northampton, Penargyl, Portland, South Bethlehem, and South Easton. Bethlehem and South Bethlehem (aggregate population 15,000 to 20,000), twelve miles from Easton. Other places named from seven to twenty miles, except Glendon, one mile. Population of County *circa* 100,000; of Easton 14,481—including environs Phillipsburg, N. J., South Easton, Glendon, etc., *circa* 35,000.
CORRESPONDENCE SOLICITED. REASONABLE CHARGES. Commissions 10 per cent and under. Bar rates for legal services. References as to ability, reliability, and responsibility furnished on request.

ARNOTT C. RICKETTS, 1872.
HENRY H. WILSON, 1881.

Collection Department,
H. W. QUAINANCE, Attorney,
Manager.

RICKETTS & WILSON ATTORNEYS AND COUNSELORS AT LAW McMURTRY BLOCK, LINCOLN, NEB.

We are not in politics; not attorneys for local banks; cater to a non-resident clientage, and ask no compensation that is not fairly earned. Will go personally anywhere in the State on claims that will justify the expense.

WHAT OUR CLIENTS SAY:

"Your services have been uniformly satisfactory and your charges reasonable."

McCORMICK HARVESTING MACHINE CO.

"We are very glad indeed that we have had our interests in the hands of parties qualified to protect them."

SPRAGUE, WARNER & CO., Chicago.

"We appreciate your faithful services. Push tells in law as everything else."

WORK BROS. & CO., Chicago, Ill.

"We have always found you vigorous, prompt and careful."

PEKIN PLOW CO., Pekin, Ill.

"Our Nebraska business has been handled by your firm for some twenty years. Always prompt, always attentive, and *uniformly successful*."

KANSAS MANFG. CO., Leavenworth, Kan.

"You have always been considered by us as among our most valuable correspondents."

CRATTY BROS. & JARVIS, Chicago.

GHAPIN BROWN,

ARTHUR H. O'CONNOR,
Attorney at Law, Associate.

ATTORNEY AT LAW,

CHAS. H. BAUMAN,
Attorney at Law, Associate.

323 Four and a Half St. (N. W.)

WASHINGTON, D. C.

MERCANTILE COLLECTIONS.

Practices before the Supreme Court of the United States, the Supreme Court of the District of Columbia, and before all the Government Departments. Special attention given to Land Business before the **GENERAL LAND OFFICE**.

PENSIONS secured for Soldiers and Sailors, under new "Dependent" and existing Pension Laws. Send for Blank Application and Copy of Laws.

REFERENCES: Hon. D. M. Key, Ex. P. M. General; Hon. O. D. Conger, Ex. U. S. Senator; Hon. M. G. Emery, Prest. Second Nat. Bank; Benj. P. Snyder, Esq., Prest. Nat. Savings Bank; A. B. Ruff, Esq., Cashier Central Nat. Bank.

AN ASSOCIATE AND MANAGER FOR EACH BRANCH OF BUSINESS.

JNO. Y. STONE.

THOS. C. DAWSON.

STONE & DAWSON,

ATTORNEYS AND COUNSELORS AT LAW.

Rooms 301, 302, 303 and 304 Shugart Building, COUNCIL BLUFFS, IOWA.

Practice in State Courts, in the Federal District, and Circuit Courts, in the Circuit Court of Appeals, and in the Supreme Court of the United States.

Careful attention given to commercial collections; claims against estates, individuals, partnerships, and corporations; resisting claims of like character; interests in every kind of property; and, generally to all rights and interests, whether for settlement by negotiation or litigation in law or equity in State or Federal Courts—District, Circuit, or Supreme—originating in Western Iowa and Eastern Nebraska.

We personally guarantee the integrity and efficiency of our assistants, and insure prompt responses and returns.

We give our immediate personal attention to every important matter, in court and out, and settle by prudent negotiation every controversy when it can be done to the satisfaction of our clients.

Recognizing the anxieties of absent or non-resident clients who have important rights in issue here, we devote the most pains-taking care and energy to their interests, and promptly inform them of every stage of action.

Refer to Hon. H. C. Caldwell, U. S. Circuit Judge (this Circuit), Little Rock, Arkansas.

Hon. John S. Woolson, U. S. District Judge (this District), Mount Pleasant, Iowa.

All the Judges of the Iowa Supreme Court.

First National Bank, Omaha, Nebraska.

First National Bank, Council Bluffs, Iowa.

Council Bluffs Savings Bank, Council Bluffs, Iowa.

Citizens State Bank, Council Bluffs, Iowa.

Officer & Pusey, Bankers, Council Bluffs, Iowa.

THE OLDEST NATIONAL BANK IN ATLANTA.

ATLANTA NATIONAL BANK

No. 1559.

ATLANTA, - GEORGIA.

Capital, \$150,000, - Surplus and Undivided Profits, \$285,000.

JAMES SWANN, President. PAUL ROMARE, Vice-President. C. E. CURRIER, Cashier.

Transacts a General Banking Business. Accounts of Banks, Bankers, Merchants and others solicited. All correspondence receives our immediate attention. Regular correspondent—Fourth National Bank, New York

JOSEPH SHATTUCK, President. SAMUEL WHITE, Vice-Prest. JUSTIN E. VARNEY, Cashier.

BAY STATE NATIONAL BANK,

OF LAWRENCE, MASS.

INCORPORATED 1847.

RE-ORGANIZED 1865.

CAPITAL, - - - - -	\$375,000.00
SURPLUS, - - - - -	200,000.00

Collections from Banks, Bankers and Merchants receive our prompt attention.

BANK OF COMMERCE

MEMPHIS, TENN.

Capital and Undivided Profits, - - \$1,380,000

S. H. DUNSCOMB, Prest.

J. A. OMBERG, Cashier.

JNO. OVERTON, JR., Vice-Prest.

W. R. STEWART, Assist. Cashier.

A GENERAL BANKING BUSINESS TRANSACTED. SPECIAL ATTENTION TO COLLECTIONS.

PATENT ATTORNEY

R. G. DUBOIS,

Southwest Corner 8th and H Streets, - - - WASHINGTON, D. C.

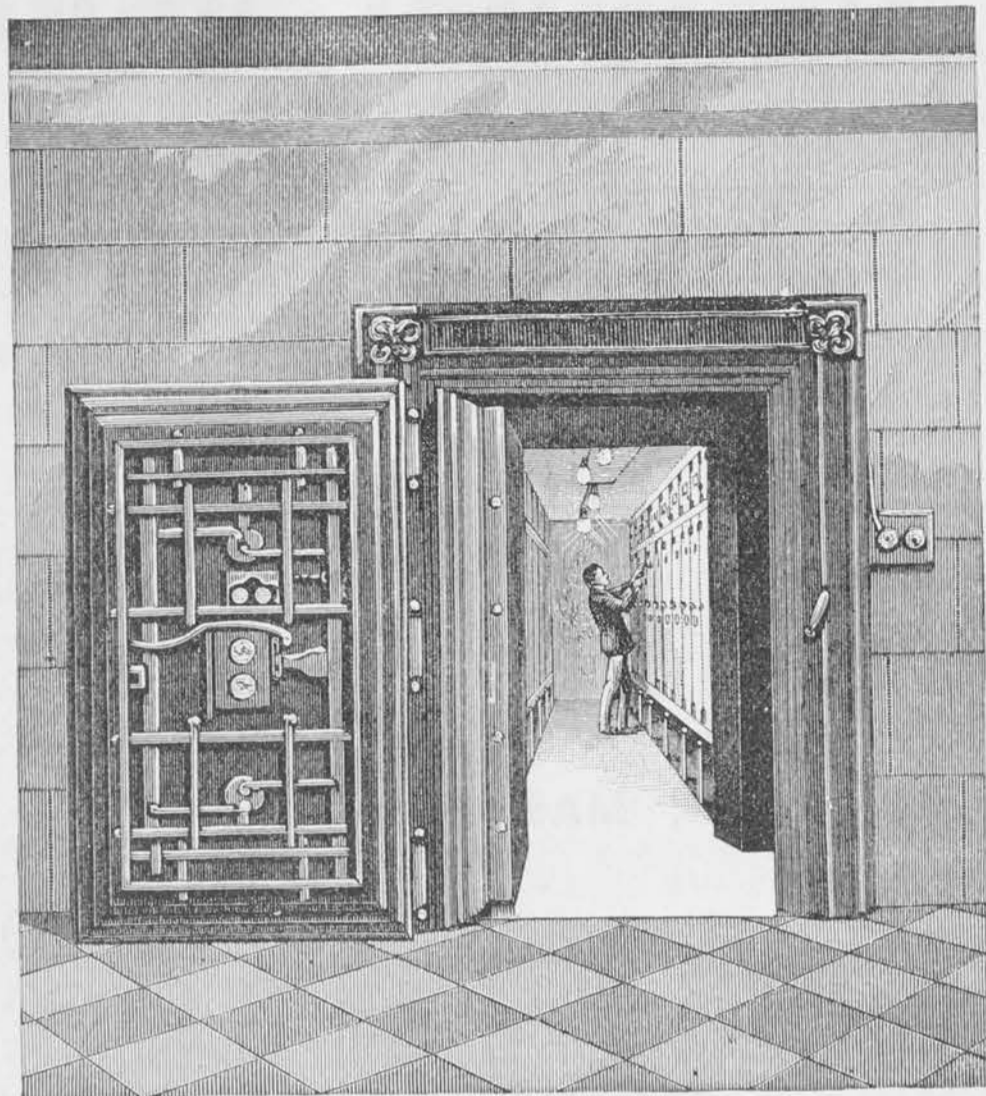
PROCURES PATENTS, TRADEMARKS, COPYRIGHTS, ETC.

Renders opinions as to scope and validity of Patents, giving prior state of art and citing Supreme Court decisions on which conclusions are based. These opinions can be used as the basis of a law suit for or against a patent, and in establishing manufacturing enterprises. **Manual of Patent Law**, for the use of Inventors, will be forwarded free upon application. Inventors' interests carefully guarded. Many years' experience. Patent business exclusively. Guaranteed by Rand, McNally & Co. Other high and responsible references. **Correspondence solicited.**

Avoid Liability to Accident, Injury, and Damages by having Level Passage in Vault Vestibule.

LEVEL ENTRANCES

Into and out of Burglar, Fireproof and Cold-storage Vaults, with movable or fixed sills and movable floors, to prevent stumbling, without impairing security. Recommended by leading Architects, Civil and Mechanical Engineers of the highest repute, Engineers and designers of Vaults, leading Vault Builders, the United States Commission on Safe and Vault Construction, the Director of the Mint, the Treasurer and Assistant Treasurer of the United States, the present Supervising and the ex-Supervising Architect of the Treasury Department, the Franklin Institute of Science of Philadelphia (which awarded the John Scott Legacy Premium and Medal), and Financial Institutions of New York, Philadelphia, Brooklyn, Boston, Providence, Baltimore, Washington, Pittsburg, Wilkes-Barre, Cincinnati, Chicago, Camden, N. J., London, England, and other places, representing capital and surplus of over \$1,000,000,000.



Architects, Engineers, and Financial Companies are requested to specify CLARK'S LEVEL PASSAGES in all Vault Vestibules, which will then cost no more than the old style raised sills. The right to make or use these devices can be obtained only by License from

G. S. CLARK, 325 Chestnut St., Philadelphia, Pa.

SPECIAL REFERENCE IS MADE TO

Coleman Sellers, E. D., Consulting Engineer, New York and Philadelphia.
 Wilson Bros. & Co., Mechanical and Consulting Engineers and Architects, Philadelphia.
 William Sellers & Co., Engineers, Philadelphia.
 J. M. Mossman, Vault Engineer and Expert, N. Y.
 R. M. Patterson, Consulting Engineer, Philadelphia.
 Blake Bank Lock Inspection Co., Worcester, Mass.
 W. H. Brown, Chief Engineer Pennsylvania R. R. Co., Philadelphia.
 Henry R. Towne, M. E., and President Yale & Towne Manufacturing Co.
 D. K. Miller, M. E., President Automatic Tumbler Lock Co., Philadelphia.
 Fairman Rogers, C. E., Philadelphia.
 F. S. Holmes, Mechanical and Vault Engineer and Expert, Philadelphia.
 David Evans, Civil Engineer and Architect, Phila.
 J. C. Brooks, M. E., and President Southwark Machine Co., Philadelphia.
 M. N. Forney, M. E., and Publisher of the Railroad and Engineering Journal, New York.
 John T. Morris, M. E., Philadelphia.
 W. C. Gatzmer, C. E., M. E., and Marine Architect, Philadelphia.
 M. R. Mucklé, Jr. & Co., Mechanical Engineers, Philadelphia.
 John Birkinbine, M. E., President American Institute Mining Engineers, Philadelphia.
 J. H. Linville, C. E., Philadelphia.
 Alex. P. Gest, C. E., Penn. R. R. Co.
 Jacob Naylor, M. E., Philadelphia.
 John V. Rice, Jr., M. E., New Jersey.
 Richard M. Hunt, Architect, New York.
 Heins & La Farge, Architects, New York.
 James H. Windrim, ex-Supervising Architect Treasury Department, U. S., and present Director Public Works, Philadelphia.
 G. W. & W. D. Hewitt, Architects, Phila. Bourse.
 Cabot, Everett & Mead, Architects, Boston.
 Baldwin & Pennington, Architects, Baltimore.
 James G. Hill, Architect, Washington, D. C.
 Wm. Kauffman, Architect, Pittsburg.
 F. J. Osterling, Architect, Pittsburg.

The Fidelity Ins., Trust & Safe Deposit Co., Phila.
 The Pennsylvania Co. for Insurance on Lives and Granting Annuities, Philadelphia.
 The Girard Life Ins., Annuity & Trust Co., Phila.
 Drexel & Co., Philadelphia.
 Brown Bros. & Co., Philadelphia.
 Dick Bros. & Co., Philadelphia.
 The Provident Life & Trust Co., Philadelphia.
 The Guarantee Trust & Safe Deposit Co., Phila.
 The Pennsylvania R. R. Co., Philadelphia.
 The Real Estate Trust Co., Philadelphia.
 United Security Life Insurance & Trust Co., Philadelphia.
 The Land Title & Trust Co., Philadelphia.
 Tradesmen's National Bank, Philadelphia.
 The Beneficial Saving Fund Society, Philadelphia.
 Philadelphia & Reading Terminal R.R., Philadelphia.
 The City Trust, Safe Deposit & Surety Co., Phila.
 The Commonwealth Title Insurance & Trust Co., Philadelphia.
 Philadelphia Mortgage & Trust Co., Philadelphia.
 The Western National Bank, Philadelphia.
 Central National Bank, Philadelphia.
 Bank of North America, Philadelphia.
 The Philadelphia Trust, Safe Deposit & Insurance Co., Philadelphia.
 Fourth Street National Bank, Philadelphia.
 Lincoln National Bank, New York.
 Mercantile Safe Deposit Co., New York.
 Franklin Trust Co., Brooklyn.
 Central R. R. Company of New Jersey, New York.
 Security Safe Deposit Co., Boston.
 Boston Safe Deposit & Trust Co., Boston.
 State Street Safe Deposit Vaults, Boston.
 Union Safe Deposit Vaults, Boston.
 Old Colony Safe Deposit Vaults, Boston.
 Bay State Trust Co., Boston.
 International Trust Co., Boston.
 Fidelity & Deposit Co. of Maryland.
 Drovers & Mechanics National Bank, Baltimore.
 Washington Loan & Trust Co., Washington.
 American Security & Trust Co., Washington.
 Rhode Island Safe Deposit Co., Providence.
 And many other Banks, Architects, and Engineers.

Detailed drawings furnished without charge, on application, to prevent mistakes in building.

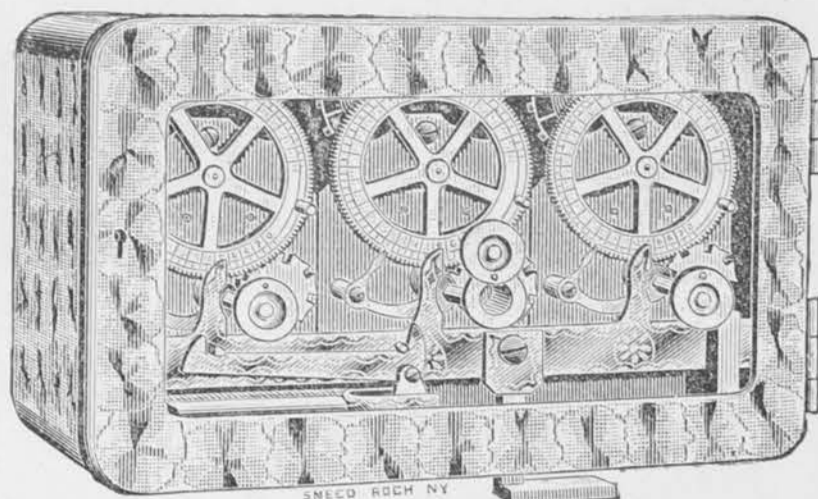
"Comfort and convenience promoted without interfering in the least with the security."—Coleman Sellers, M. E. and C. E.

The only patents that allow Level Passages in Vault Vestibules having Fixed or Movable Sills.

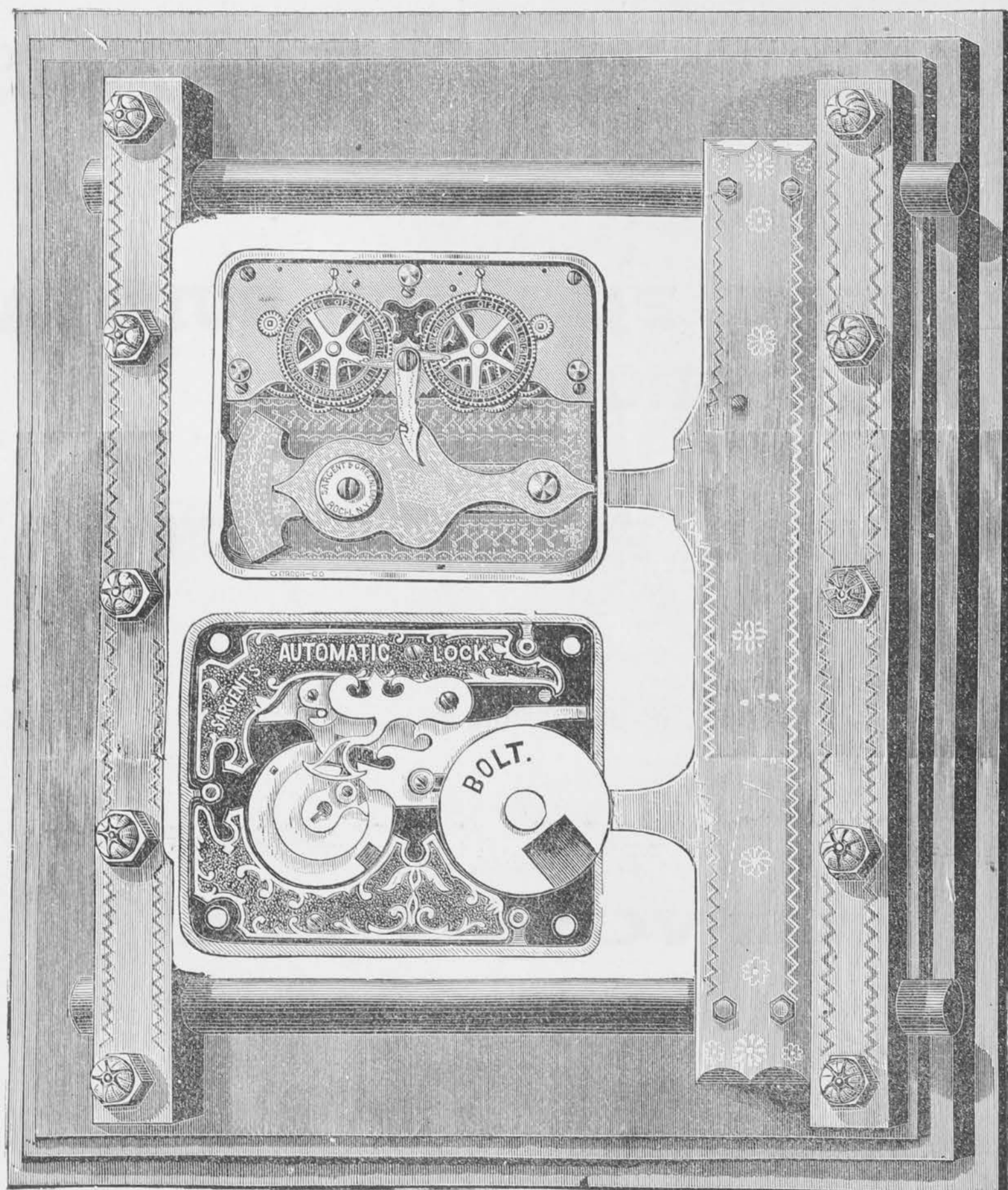
ALL OTHER DEVICES FOR THIS PURPOSE ARE INFRINGEMENTS.

Sargent & Greenleaf Time Locks

Manufactured by
Sargent & Greenleaf,
Rochester, N. Y.



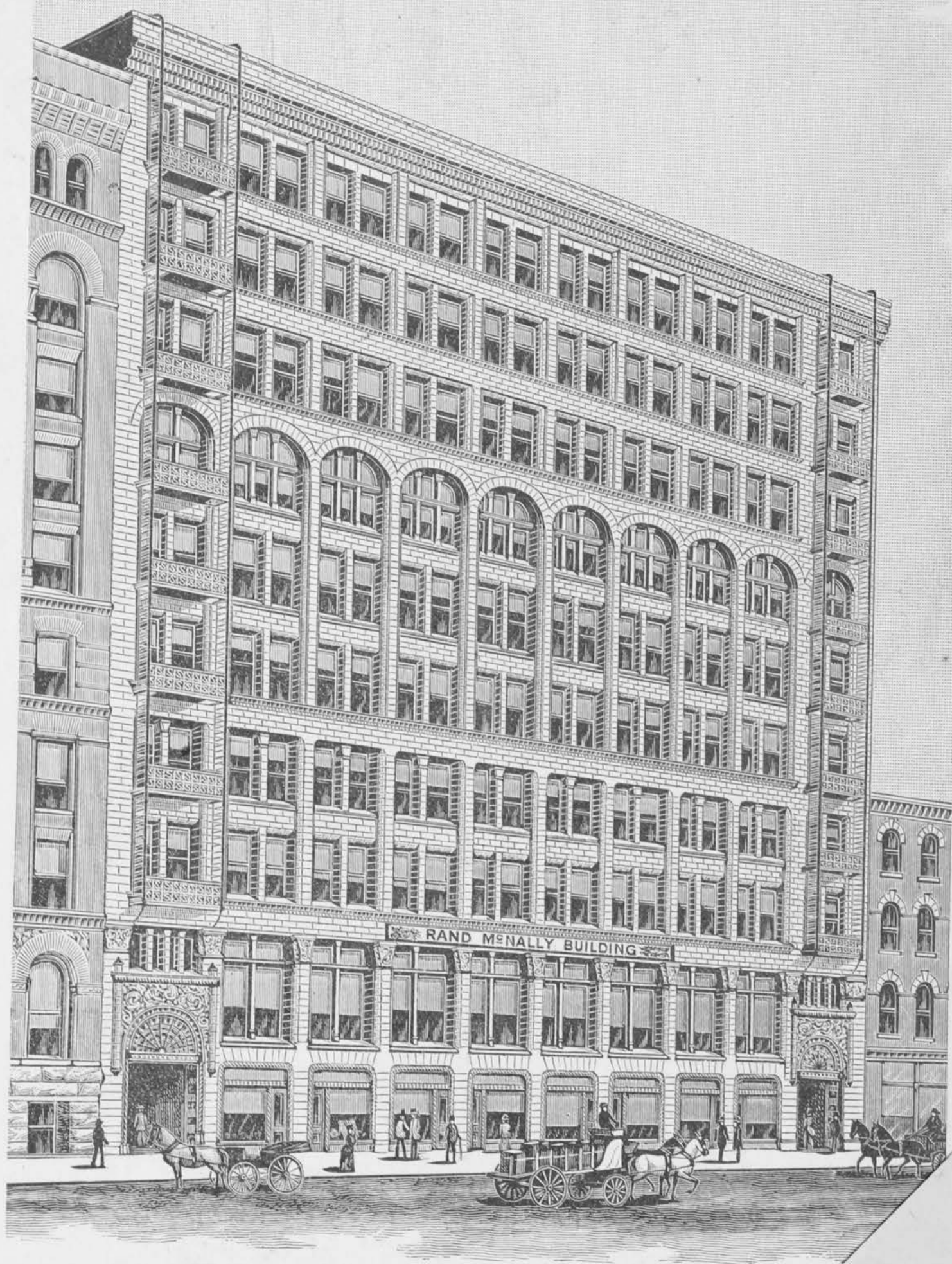
No Bank is SAFE
without
A TIME LOCK.



J. M. MOSSMAN, - - - 72 Maiden Lane, New York.
SARGENT, GREENLEAF & BROOKS, 43 and 45 Franklin St., Chicago, Ill.

AUX STACKS

3 9352 03740662 6



RAND, McNALLY & Co.
PRINTERS AND MAP PUBLISHERS

RAND-McNALLY BUILDING, CHICAGO

Railroad, Book, Catalogue, and Pamphlet
graphic Work. Electro-

HG
2441
R3
Jan.
1894
cop. 2

litho-

AUX STACKS

UNIVERSITY OF WASHINGTON



OMAHA NATIONAL BANK

— U. S. DEPOSITORY. —

• OMAHA, NEBRASKA. •

CAPITAL \$1,000,000.

J. H. MILLARD, PRESIDENT. W. B. MILLARD, VICE PRESIDENT.
WILLIAM WALLACE, CASHIER.

COLLECTIONS IN THE WEST AND NORTHWEST
RECEIVE PROMPT ATTENTION.

SOUTH OMAHA NATIONAL BANK

UNION STOCK YARDS.

SOUTH OMAHA, NEBRASKA.

CAPITAL \$100,000, SURPLUS AND PROFITS \$65,000.

J. H. MILLARD, PRESIDENT. TRUMAN BUCK, VICE PRESIDENT.

H. C. BOSTWICK, CASHIER.