DIGEST OF BANKING AND COMMERCIAL LAWS

Compiled Expressly for
THIS EDITION OF

THE RAND-MCNALLY BANKERS' DIRECTORY

BY

Those Prominent Lawyers Whose Names Appear at the Head of the Laws of Each State

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The Following States Have Put in Operation
THE NEGOTIABLE INSTRUMENTS LAW

State	In Effect	State	In Effect
Alabama	Jan. 1, 1908	Nevada	May 1, 1907
Arizona	Sep. 1, 1901	New Hampshire	Jan. 1, 1910
Arkansas	April 22, 1913	New Jersey	July 4, 1902
Colorado	July 19, 1897	New Mexico	Mar. 21, 1907
Connecticut	Apr. 5, 1897	New York	Oct. 1, 1897
Delaware	Jan. 1, 1912	North Carolina	Mar. 8, 1899
Dist. of Columbia	Apr. 3, 1899	North Dakota	July 1, 1899
Florida	Aug. 3, 1897	Ohio	Jan. 1, 1903
Hawaii	Apr. 20, 1907	Oklahoma	July 20, 1909
Idaho	Mar. 10, 1903	Oregon	May 19, 1899
Illinois	July 1, 1907	Pennsylvania	Sep. 2, 1901
Indiana	April 1, 1913	Philippines	May 31, 1911
Iowa	July 4, 1902	Rhode Island	July 1, 1899
Kansas	June 8, 1905	South Carolina	Mar. 25, 1914
Kentucky	June 13, 1904	South Dakota	July 1, 1913
Louisiana	Aug. 1, 1904	Tennessee	May 16, 1899
Maryland	June 1, 1898	Utah	July 1, 1899
Massachusetts	Jan. 1, 1899	Vermont	Feb. 13, 1913
Michigan	Sep. 16, 1905	Virginia	July 1, 1898
Minnesota	April 24, 1913	Washington	June 7, 1899
Missouri	June 16, 1905	W. Virginia	Jan. 1, 1908
Montana	Mar. 7, 1903	Wisconsin	May 15, 1899
Nebraska	Aug. 1, 1905	Wyoming	Feb. 15, 1905

For Tabulated Information see Page 14 and Negotiable Instruments Map opposite Page 12

Laws

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Dates of Regular Meetings of Legislatures

Alabama	January, 1915, and every four years.	
Alaska	A Territory.	
Arizona	January	Every odd year.
Arkansas	January	Every odd year.
California	January	Every odd year.
Colorado	January	Every odd year.
Connecticut	January	Every odd year.
Delaware	January	Every odd year.
District of Columbia	Under U. S. Government.	
Florida	April	Every odd year.
Georgia	June	Every year.
Hawaii	February	Every odd year.
Idaho	January	Every odd year.
Illinois	January	Every odd year.
Indiana	January	Every odd year.
Iowa	January	Every odd year.
Kansas	January	Every odd year.
Kentucky	January	Every even year.
Louisiana	May	Every even year.
Maine	January	Every odd year.
Maryland	January	Every even year.
Massachusetts	January	Every year.
Michigan	January	Every odd year.
Minnesota	January	Every odd year.
Mississippi	January	Every even year.
Missouri	January	Every odd year.
Montana	January	Every odd year.
Nebraska	January	Every odd year.
Nevada	January	Every odd year.
New Hampshire	January	Every odd year.
New Jersey	January	Every year.
New Mexico	January	Every odd year.
New York	January	Every year.
North Carolina	January	Every odd year.
North Dakota	January	Every odd year.
Ohio	January	Every odd year.
Oklahoma	January	Every odd year.
Oregon	January	Every odd year.
Pennsylvania	January	Every odd year.
Rhode Island	January	Every year.
South Carolina	January	Every year.
South Dakota	January	Every odd year.
Tennessee	January	Every odd year.
Texas	January	Every odd year.
Utah	January	Every odd year.
Vermont	October	Every even year.
Virginia	January	Every even year.
Washington	January	Every odd year.
West Virginia	January	Every odd year.
Wisconsin	January	Every odd year.
Wyoming	January	Every odd year.

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by prominent Attorneys in each State of the United States and each province of Canada, the name of the compiler appearing at the head of each State. The Laws are entered alphabetically according to States. Provinces of Canada are listed last.

IMPORTANT: For Tabulated Information, for quick reference in regard to Interest Rates, Days of Grace, Damages for Protested Bills, Statutes of Limitations, Negotiable Instruments, and Holidays, **see page 14 and Map between pages 12 and 13. The Negotiable Instruments Law has been adopted in those States whose names are printed in Red on that Map.**

SYNOPSIS OF

THE LAWS OF ALABAMA

RELATING TO

BANKING AND COMMERCIAL USAGES.

Prepared and Revised by MR. CLAUDE D. RITTER, Attorney at Law, Birmingham. (See Card in Attorneys' List.)

Acknowledgments or proof of real estate instruments may be before one of the following courts or officers: 1st. Within this State' judges of the supreme and circuit courts and the clerks of such courts, chancellors, registers in chancery, judges of the courts of probate, justices of the peace, and notaries public. The official should certify that the person signing the conveyance is known to him and acknowledges that "being informed of the contents of the conveyance he executed the same voluntarily on the day the same bears date." 2d. Outside of State—Judges and clerks of any federal court, judges and clerks of any court of record in any state, notaries public, or commissioners appointed by the governor of this State; beyond the limits of the United States, by the judges of any court of record, mayor or chief magistrate of any city, town or borough, or county, notaries public, or by any diplomatic, consular, or commercial agent of the United States. For forms of deeds see "Conveyances."

Actions. All ordinary suits at law are commenced by suing out a summons which must be accompanied by a complaint stating the cause of action. Non-resident plaintiffs are required to give security for costs. When two or more persons are jointly bound by judgment, bond, or agreement, the obligation is several as well as joint.

Acceptance. Unconditional promise in writing to accept a bill before or after drawn is good in favor of all who take it upon faith thereof for value. The holder may decline a qualified acceptance and treat the bill as dishonored; if he takes qualified acceptance drawer and endorsers are discharged.

A Check. Is a bill of exchange on a bank payable on demand; must be presented with reasonable time after issue and if dishonored, notice must be given or drawer is discharged to the extent of loss caused by delay; does not operate to assign any part of drawer's funds in bank, and bank is not liable unless it accepts or certifies. If holder has check certified the drawer and endorsers are discharged.

The present negotiable instrument law of Alabama, consisting of 196 sections went into force August 9, 1907. Its provisions do not apply to instruments made prior thereto. The act so materially changes the law in this State as to suggest the propriety of special examination in any doubtful case.

Administration of estates is had in the probate courts of decedents' residence. All claims must be presented within twelve months after the same have accrued or within twelve months after the grant of letters testamentary or of administration, or else barred. Infants and persons of unsound mind have one year to present their claims after disabilities removed. Administration of intestate is granted, 1st: To the husband or widow; 2d: The next of kin entitled to share in the distribution of the estate; 3d: The largest creditor of the intestate residing within this State; 4th: Such other person as the judge of probate may appoint. There can be no appointment until after expiration of fifteen days from date of death. Preference must be exercised within forty days or rights relinquished. If several entitled to administer, men are preferred to women and whole blood to half blood. Non-resident executors and administrators may sue in this State by recording in probate judge's office copy of letters and giving bond to faithfully administer property. A non-resident may be appointed administrator or executor of a deceased resident's estate.

Affidavits may be taken within the State before every judge or clerk of any court, justices of the peace, and notaries public or any other person invested by law with judicial functions. Outside the State and within the United States may be taken before any judge or clerk of federal court, judge of any court of record in any state, notaries public and commissioners appointed by the governor.

Aliens. "Foreigners who are, or may hereafter become, bona fide residents of this State, shall enjoy the same rights in respect to the possession, enjoyment, and inheritance of property as native-born citizens."—Sec. 34, Const.

Alterations. When a negotiable instrument is materially altered without the assent of all the parties liable thereon, it is avoided except as against a party who has himself made, authorized, or assented to the alteration and subsequent endorsers. But when an instrument has been materially altered and is in the hands of a holder in due course, not a party to the alteration, he may enforce payment thereof according to its original tenor. Material alterations consists of any changes in date; sum payable, interest on principal; time or place of payment; number and relation of parties; medium or currency in which payment is to be made.

Arbitration. Courts are compelled by statute to make an order submitting cases for arbitration when moved for by the parties, and to continue this cause for one term for an award, but not longer without consent of parties, or good cause being shown therefor. The award of the arbitrators may be entered up and enforced as the judgment of the proper court whether made in a pending suit or not.

Arrest. There can be no arrest on civil process, except for contempt and in cases of alleged lunacy.

Assignments and Insolvency. Every general assignment made by a debtor, or 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, pledges, or pawns 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. All deeds of assignment for the benefit of creditors shall, as soon as executed, be filed and recorded in the office of the judge of probate of the county in which the property is situated. Every judgment confessed, attachment procured by the debtor, or other disposition of property by which a debtor conveys all, or substantially all, of his property which is subject to execution in payment or as security for a debt shall be deemed a general assignment.

Attachment process will issue 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 cannot 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. Attachments will issue for the following demands: 1: To enforce the collection of a debt, whether it be due or not, at the time the attachment is taken out. 2: For any moneyed demand, the amount of which can be certainly ascertained. 3: To recover damages for a breach of contract when the damages are not certain or liquidated. 4: When the action sounds in damages merely. One non-resident may sue out an attachment against another non-resident by making oath that the defendant has not sufficient property within the State of his residence wherefrom to satisfy the debt. Attachments may be sued out in aid of a pending suit when any of the above grounds exist. Garnishment process will issue in aid of attachment in all such cases. Garnishment may be dissolved by giving bond. In all cases of attachments sued out solely upon the ground that the defendant is a non-resident, the attachment may issue without giving bond, but if defendant appears and pleads, bond must be given or the attachment dismissed.

Banks. The national bank system is in force in this State uncontrolled in any way by State laws, except that the shares are subject to taxation as other personal property, but the bank is required to pay the tax.

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. Depositors not claiming interest are preferred creditors in case of insolvency.

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

Collaterals. Receipt must be given for if demanded. Pledges or collaterals not transferable without transfer of the debt; after two days' notice in writing collaterals may be sold, by advertising for five days, at public outcry.

Conditional sales are good between the parties, but void where personal property delivered to vendee as against purchasers for a valuable consideration without notice, mortgages and judgment creditors, unless in writing and recorded in the office of the probate judge.

Conditional contracts of sales must be recorded in office of the Judge of Probate of the county in which the property is located, to be rated against subsequent purchasers or judgment creditors without notice, except in counties having a population of more than 80,000 and the contract is for a less amount than $200.00.

Contracts. In the following cases, every agreement is void, unless such agreement, or some note or memo. thereof, expressing the consideration, is in writing and signed by the party to be charged: 1. Every agreement which by its terms is not to be performed within one year from the making thereof. 2. Every special promise by an executor or administrator to answer damages out of his own estate. 3. Every special promise to answer for the debt, default, or miscarriage of another. 4. Every agreement, promise, or undertaking, made upon consideration of marriage, except mutual promises to marry. 5. Every contract for the sale of lands, tenements, or hereditaments, or of any interest therein, except leases for a term of not longer than one year, unless the purchase money, or a portion thereof, be paid, and the purchaser be put in possession by the seller.

General acknowledgment must be signed to make instrument self-proving. Married women must acknowledge twice in the event the homestead is conveyed. Form of general acknowledgment is as follows:

The State of Alabama, ... County.

I, ..., a (style of officer), hereby certify that ....., whose name is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day, that, being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date. Given under my hand and seal, this.....day of.....A. D.

.....

(Seal) Notary Public.

Conveyances. All persons of the age of twenty-one years, not laboring under some legal disability, may convey their real estate or any interest therein by instrument in writing signed by the grantor, or his agent duly authorized in writing, and attested by one witness, or if the grantor cannot write, by two witnesses who are able to write, and who sign their names as witnesses. If the grantor is not able to sign his name it must be written for him, and the words "his mark" written over or against it. The person writing his name must sign as a witness. A parol lease for less than one year is valid. A married woman over eighteen years of age may convey dower in her husband's lands, and has generally the same rights as married women over twenty-one years of age. The husband must join in any conveyance of the wife's separate estate. Conveyances, to operate as notice, must be acknowledged and recorded. No time is required within which conveyances shall be recorded. They operate as notices from date of delivery to probate judge for record. (See Acknowledgments.) They may be used as evidence without further proof of execution. Lease-

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hold estates may be created to last not exceeding twenty years, but if longer void as to excess. A married woman must make the following acknowledgment to a conveyance of a homestead:

State of ....., County of .....

I, ...judge of..... (or other officer) do hereby certify that, on the .....day of ....., 19....., came before me the within named ....., known to me (or made known to me) to be the wife of the within named ....., who, being examined separate and apart from her husband touching her signature to the within ....., acknowledged that she signed the same of her own free will and accord, and without fear, constraint, or threats on the part of her husband.

In witness whereof, I hereto set my hand this ..... day of ....., 19....

.....
(Official Character.)

Corporation to make following acknowledgment:

.....that.....
whose name as ....., of the said corporation, is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, as such officer, and with full authority, executed the same voluntarily for and as the act of said corporation.

Corporations. Every company, corporation, or association, not organized under the laws of Alabama, engaged in any other business than insurance, 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 insurance commissioner. If the agent is changed, a new paper must be filed. Held not to apply to corporations selling goods by traveling agent or sample. Foreign corporations transacting business in this State without complying with above provisions, for each offense forfeit to the State $1,000, and any person acting as agent for foreign corporation that has not so complied, forfeits for each offense $500. All foreign corporations doing business in this State are required to pay license fees ranging from $25 upward, according to capital. Foreign corporations can do no business until fees are paid and all contracts before then are void. Every foreign corporation required to procure from secretary of state a permit to do business in the State. This permit costs $10 per annum.

Courts. Terms and jurisdiction. The supreme court, except to issue writs of injunction, habeas corpus, quo warranto, and other remedial and original writs necessary to its supervision of inferior courts, and impeachments of judicial officers, has only appellate jurisdiction and cases are tried on the record sent up. Court of appeals has final appellate jurisdiction in the following cases: 1. When the amount involved exclusive of interest and costs does not exceed the sum of $1,000. 2. Of all misdemeanors, including the violation of town and city ordinances, bastardy, habeas corpus, and all felonies, where the punishment has been fixed at twenty years or under. Circuit courts have unlimited common law jurisdiction when the matter or sum in controversy exceeds $50, and exclusive jurisdiction of libel, slander, assault and battery, and ejectment. The courts of chancery have exclusively equity jurisdiction. Regular terms of both twice a year in nearly every county. Chancery courts have full equity powers. 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 set out in writs. Partnership may be sued in courts of law, in firm name, without setting forth names of co-partners, but judgment in such suits bind only partnership's property, not that of individual 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 are abolished. (See Negotiable Instruments.)

Depositions. In cases at law, depositions may be taken of witnesses who cannot 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 No. 4030. Affidavit must be made of one of the above facts, and of the materiality of the witness. May be taken on interrogatories by a commissioner appointed by the court for that purpose. The commissioner may be any suitable person, need not be an officer. In equity suits, where witnesses live within 100 miles of the place of trial, depositions may be taken by oral examination before the register, or a special examiner, or commissioner appointed for the purpose

Descent and Distribution. The real estate of persons dying intestate, in this State, descends, subject to the payment of debts and the widow's dower, as follows: First to the children of the intestate or their descendants per stirpes in equal parts. Next, to the parents, if they survive, in equal parts. If only one parent survives, then one-half to such parent and one-half to the brothers and sisters of the deceased or their descendants, and if there be no brothers and sisters and their descendants, then the whole estate shall go to the surviving parent. If there are no children or their descendants, and no father or mother, then to the brothers and sisters of the intestate, or their descendants, in equal parts. If there are none of the above to take, then the whole to the husband or wife of the intestate, and if there be no husband or wife or none of the foregoing living, then to the next of kin in equal degree in equal parts. If there are no next of kin it escheats to the State. The personal estate is distributed the same as the real estate, except that if there are no children the widow is entitled to all of the personal estate. If but one child she takes one-half. If not more than four children to a child's part, and if more than four to one-fifth. Posthumous children take as others. Illegitimate children inherit from their mother. The husband upon the death of the wife is entitled to half of her personal estate absolutely, and to the use of all of her real estate for life, unless he has been divested of all control over her estate by a decree of the chancery court. Damages recovered by personal representation for death of deceased are distributed according to statute of distribution and are exempt from payment of debts.

Dower. Unless the wife has relinquished her right of dower in the manner provided by statute she is, upon the death of the husband, entitled to dower in all lands of which the husband was seized in fee during the marriage, or of which another was seized to his use or to which he had a perfect equity, having paid all the purchase money therefor. The dower interest is one-half when the husband leaves no lineal descendants, and one-third when the estate is insolvent or the husband leaves children or their descendants. If the wife has at the death of the husband a separate estate equal in value to her dower interest, she shall not have dower, and if of less value is only entitled to such amount as with her estate will make the full value of the dower.

Executions. Property subject to: 1st: On real property to which the defendant has a legal title or a perfect equity, having paid the purchase money, or in which he has a vested interest, in possession, reversion, or remainder, whether he has the entire estate, or is entitled to it in common with others. 2d: On personal property of the defendant (except things in action), whether he has the absolute title thereto, or the right only to the possession thereof for his own life, the life of another, or a less period. 3d: On an equity of redemption in either land or personal property, when any interest less than the absolute title is sold. The purchaser is subrogated to all the rights of the defendant, and subject to all his disabilities. Writ of fieri facias is a lien only within the county in which it is received by the officer, on lands and personality 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. Executions issued by justices are liens on the property of the defendant, on which they are levied, from the time of the levy. An order must be obtained from the circuit court for the sale of lands levied on under execution from a justice's court. No stay of execution in circuit court except by appeal, and supersedeas bond which delays collection until affirmance by supreme court, and entails 10 per cent damages, with legal interest and costs. In justice's court 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, or after judgment, without bond.

Husband and Wife. The wife has full legal capacity to contract as if she were sole, except that she can not alienate or encumber her real estate without the husband joining in the conveyance, unless the husband be insane or has abandoned her, or is a non-resident, or is imprisoned under a conviction for crime for a period of two years or more, in which cases the wife may convey it as if she were sole.

Husband and wife may contract with each other, but the wife cannot be surety for the husband. All of the property and the earnings of the wife are her separate estate, and are not liable for the debts of the husband. The wife must sue and be sued alone for all matters relating to her separate estate or contracts, and for all torts to her person or property. The chancery court has power to relieve of any or all disabilities of coverture.

Interest. Legal rate is 8 per cent, and same is allowed on all open accounts, judgments, and decrees. Usury forfeits all interest. Usurious interest paid may be recovered back within twelve months after completed payment.

Judgments of courts of record are proved by a certified transcript. Judgment not a lien, but when a certified statement thereof, made by the court of the clerk, is filed in the office of the probate judge, it becomes a lien on all property of the defendant therein in the county, which is subject to execution for ten years, to enforce which execution may issue at any time within that period. 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 do 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. All agreements to confess judgment, or to authorize another to confess judgment, made before the commencement of the suit in which such judgments are so confirmed are void.

Mechanics' Lien. Contractors, including subcontractors, mechanics, material men, and laborers have a lien on houses built and the ground on which they stand upon complying with the law.

Lien for Rent. The landlords of any store house, dwelling house, or other building, shall have a lien on the goods, furniture and effects belonging to the tenant, and sub-tenant for his rent, which shall be superior to all other liens, except those for taxes, also on crops grown on rented premises for rent of the current year.

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. If anyone entitled to bring an action, or make an entry on land, or defense founded on title to real estate be at the time such right accrues, within the age of twenty-one years, or insane or imprisoned on a criminal charge for a term less than life, he shall have three years, or the period allowed by law, for bringing such action, if the period allowed by law be less than three years, after the termination of such disability to bring such suit, etc., 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. Any agreement or stipulation to shorten the period prescribed by law for the bringing of any action is void. Actions seeking relief on the ground of fraud where the statute created a bar, the cause of action begins to run upon discovery of the fraud by aggrieved party. No promise or acknowledgment is sufficient to remove the bar to a suit, except a partial payment made upon the contract by the party sought to be charged before the bar is complete, or an unconditional promise in writing, signed by the party to be charged thereby.

Married Women. (See Husband and Wife.)

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 authorized a sale. All mortgages are void against creditors or purchasers without notice, unless recorded. Mortgages operate as notice from day of delivery to probate judge for record. There is no fixed time within which they shall be recorded. Homestead realty cannot be mortgaged or otherwise alienedwithout the voluntary 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, revests 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 revests title to personal property in the personal representative, and title to reality in the heirs, devises, 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.

Negotiable Instruments. Must be payable in money and must contain an unconditional promise to pay a sum certain on demand or at a fixed or determinable future time; must be payable to a specified person or bearer; may be in installments and contain provision that

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on any default the whole shall become due; with exchange fixed or current rate, interest, and attorney's fees for collection; may authorize sale of collaterals and confession of judgment; if it reads, "I promise to pay" all signers are jointly and severally liable; may be payable at fixed time after date or sight, or after specified certain event, but not upon a contingency; cannot waive exemption from execution; need not specify value given nor place where drawn or payable; if issued, accepted, or endorsed when overdue it is payable on demand; may be payable to two or more payees jointly, or one or more of several payees, or to the estate of a deceased person; absence or failure of consideration a defense against one not a holder in due course and partial failure a defense pro tanto. One not a party to instrument placing a signature in blank before delivery becomes an endorser. Every endorser engages that on due presentment it shall be honored or that he will pay the amount to holder or any subsequent endorser who may be compelled to pay; no days of grace; when maturity falls on Sunday or holiday payment is due on next business day; if due on Saturday must be presented on next business day, but if payable on demand holder may present same before noon on Saturday. Fraud and circumvention in procuring execution of instrument is a defense against any holder.

Powers of Attorney. Powers of attorney or other instruments conferring authority to convey property may be proved or acknowledged in the same manner and must be received as evidence to the same extent as conveyances (see Conveyances), and must be executed as conveyances. A power of attorney to relinquish dower must be executed by husband and wife jointly. Her signature must be attested by two witnesses, who are able to write or acknowledge as required for conveyances of land.

Presentment. Is not necessary to charge one primarily liable except in case of bank notes; if payable at special place ability and willingness to pay it there at maturity is equivalent to a tender; if not on demand it must be presented on day it falls due, if on demand then within a reasonable time after its issue, except a bill of exchange must be presented within reasonable time after its last negotiation.

Probate Law. A court of probate, consisting of one judge, is established for each county in the State. This court has jurisdiction of the probate of wills, of granting letters testamentary and of administration, and the repeal or revocation of the same; of the settlements of accounts of executors and administrators, of the sale and disposition of the real and personal property belonging to, and the distribution of, intestates' estates. Also of the appointment, removal, and settlements of guardians for minors and persons of unsound mind, the binding out of apprentices, the allotment of dower, and the partition of land belonging to joint owners. A court of probate must be held at the court house of each county on the second Monday of each month, and the judge may hold special or adjourned terms whenever necessary, but such court must at all times be considered open, except on Sundays. It also keeps a record of deeds, mortgages, and instruments entitled to record.

Promissory Note. Must be unconditional promise in writing to pay on demand or at fixed or determinable time a sum certain in money to order or bearer, and where drawn to maker's own order is not complete until endorsed by him; may be in installments.

Protest. (See Negotiable Instruments.)

Protest of Foreign Bills. May be made by notary public or by any respectable resident of the place in presence of two or more credible witnesses; bill of exchange does not operate to assign funds in hands of drawee and he is not liable unless he accepts.

Replevin. Writ of replevin lies to recover property in custody if an officer of the law, and is limited to this. The action of detinue lies to recover personal property in all other instances.

Taxes become due on October 1st, and 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. Rate of taxation is sixty-five per cent on each $100.00, for State purposes. County may levy a like amount. Municipalities may levy a lax not to exceed one half of one per cent. 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 15 per cent per annum, and all taxes which have accrued subsequent to the sale, and interest thereon, at 8 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. All cotton factories or cotton mills which shall be constructed in this State within five years shall be exempt from taxation for a period of ten years, provided such mills represent an investment of $50,000.

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 by testator 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.

SYNOPSIS OF

THE LAWS OF ALASKA

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by O. D. COCHRAN, Attorney at Law, Nome.
(See Card in Attorneys' List.)

Acknowledgments. (See Deeds.)

Actions. The distinction between actions at law and suits in equity and all forms of pleading heretofore existing in actions at law and suits in equity are abolished, and there is but one form of action, denominated a civil action, for the enforcement or protection of private rights and the redress or prevention of private wrongs. Every action must be prosecuted in the name of the real party in interest, except that an administrator or executor, a trustee of an express trust, or a person expressly authorized by statute may sue without joining with him the person for whose benefit the action is prosecuted; but the assignment of a thing in action not arising out of contract is not authorized.

Affidavits. An affidavit or deposition taken out of Alaska, otherwise than upon commission, must be authenticated as follows: 1. It must be certified by a commissioner appointed by the governor of Alaska to take affidavits and depositions in the state, territory, district or country where taken; or, 2, it must be certified by a judge of a court of record having a clerk and a seal to have been taken and subscribed before him at a time and place therein specified, and the existence of the court, the fact that such judge is a member thereof, and the genuineness of his signature must be certified by the clerk of the court, under the seal thereof. In all affidavits or depositions witness should speak in the first person.

Aliens. Any alien who is a bona fide resident of the United States, or who has declared his intention to become a citizen, or whose rights are secured by treaty, may acquire and hold lands upon the same terms as a citizen. Any alien may acquire lands by inheritance or in the ordinary course of justice in the collection of debts, and may acquire and enforce liens upon lands, but such lands must be sold within ten years. Any alien may also acquire and hold lots or parcels of land in any incorporated or platted city, town, or village, or in any mine or mining claim, but is not authorized to acquire title from the United States to any of the public lands.

Arrest. The defendant may be arrested in the following civil actions: 1. For the recovery of money or damages when the defendant is about to remove from the district with intent to defraud his creditors; for an injury to person; or for willfully injuring or wrongfully taking, detaining, or converting property. 2. For a fine or penalty; or for money or property embezzled or fraudulently misapplied or converted to his own use by a public officer, or by an attorney, or by an officer or agent of a corporation in the course of his employment as such, or by any agent, broker, or other person in a fiduciary capacity or for misconduct or neglect in office or in a professional employment. 3. To recover the possession of personal property unjustly detained, when the property or any part thereof has been concealed, removed, or disposed of, so that it cannot be found or taken by the marshal, and with 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 fraud in contracting a 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. 5. When the defendant has removed or disposed of his property, or is about to do so, with intent to defraud his creditors.

Attachment. The plaintiff, at the time of issuing the summons or afterwards, may have the property of defendant attached in an action upon a contract, express or implied, for the direct payment of money, and, 1, which is not secured by mortgage, lien, or pledge upon real or personal property, or if so secured, when the security has been rendered nugatory by the act of the defendant; or, 2, against a nonresident defendant. The writ issues whenever the plaintiff, or anyone in his behalf, files an affidavit showing that defendant is indebted to plaintiff (specifying the amount of indebtedness over and above all legal set-offs or counter-claims) upon a contract, express or implied, for the direct payment of money; that the payment has not been secured by mortgage, lien, or pledge upon real or personal property; and that the sum for which attachment is asked is an actual, bona fide, existing debt due and owing from plaintiff to defendant; and that the attachment is not sought nor the action prosecuted to hinder, delay, or defraud any creditor of the defendant. Plaintiff must also file an undertaking, with one or more sureties, in a sum not less than $100, and equal to the amount for which he demands judgment, conditioned that plaintiff will pay all costs adjudged and all damages sustained by reason of the attachment if the same be wrongful or without sufficient cause, not exceeding the amount specified.

Chattel Mortgages. Any interest in personal property, capable of being transferred, may be mortgaged; but the mortgage is void as against creditors and subsequent purchasers and incumbrancers in good faith and for value, unless possession of the property be delivered to and retained by the mortgagee or the mortgage provide that the property may remain in the possession of the mortgagor and be accompanied by the affidavit of all the parties thereto that the same is made in good faith to secure the amount named therein, and without design to hinder, delay, or defraud creditors, and be acknowledged and filed. The mortgage must be acknowledged by the mortgagor as a conveyance of real property is and be filed in the office of the recorder of the precinct where the mortgagor resides and of the precinct where the property is. Within thirty days next preceding the expiration of one year from the filing, a true copy of the mortgage, with a verified statement of the interest of the mortgagee in the property at the time the same is renewed, must be filed in the office where the original was filed, and the lien is thereby extended another year. Chattel mortgages are foreclosed in the same manner as mortgages and liens upon real property, but a clause may be inserted in a mortgage authorizing the marshal to execute the power of sale therein granted to the mortgagee.

Corporations. Domestic Corporations. Three or more adult persons, bona fide residents of the district, may form a corporation for the following purposes: To construct, own, and operate railroads,

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tramways, street railways, wagon roads, flumes, and telegraph and telephone lines in Alaska; to acquire, hold, and operate mines in Alaska; to carry on the fishing industry in Alaska and the waters adjacent and contiguous thereto; to construct and operate smelters, electric and other power and lighting plants, docks, wharves, elevators, warehouses, and hotels in Alaska; and to carry on trade, transportation, agriculture, lumbering, and manufacturing in Alaska.

Foreign Corporations. Every corporation or joint stock company organized under the laws of the United States or any state or territory shall, before doing business within the district, file in the office of the secretary of the district and in the office of the clerk of the district court for the division wherein it intends to carry on business a duly authenticated copy of its charter or articles of incorporation, and also a statement verified by the oath of its president and secretary and attested by a majority of its board of directors. Thereafter such statement must also be so filed within thirty days after July first of each year.

Deeds. A conveyance of lands, or of any estate or interest therein, may be made by deed, signed and sealed by the person from whom the estate or interest is intended to pass, and acknowledged or proved, and recorded, without any other act or ceremony. A quit-claim deed passes all the estate which the grantor could convey by deed of bargain and sale. No covenants are implied in any conveyance. The term "heirs," or other words of inheritance, are not necessary to create or convey an estate in fee simple. Husband and wife may, by their joint deed, convey the real estate of the wife, in like manner as she might do by her separate deed if she were unmarried. A married woman residing in the district, joining her husband in a deed, must acknowledge that she executed such deed freely and voluntarily. When a married woman not residing in the district joins her husband in conveying real estate situate in the district, the conveyance has the same effect as if she were sole, and the acknowledgment or proof of the execution may be made the same as if she were sole. Within the district deeds must be executed in the presence of two witnesses, who shall subscribe their names as such; and the person executing a deed may acknowledge the execution before a judge, clerk of the district court, notary public, or commissioner within the district, and the officer taking the acknowledgment must indorse thereon a certificate of acknowledgment and the true date of making the same under his hand.

Depositions. The testimony of a witness, in the district, 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, when, 1, the witness is a party to the action or proceeding, by the opposite party; 2, the witness's residence is more than one hundred miles from the place of trial; 3, the witness is about to go more than one hundred miles beyond the place of trial; 4, the witness is too infirm to attend the trial; or, 5, the testimony is required upon a motion, or in any other case where the oral examination of the witness is not required.

The testimony of a witness, out of the district, may be taken by deposition, by commission issued, upon five days' notice to the other party, by the clerk of the court, or justice of the peace in a cause in his own court, 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 the commission.

The amount of the commissioner's fees should be indorsed upon the deposition.

Descent and Distribution. The real property of an intestate descends as follows: 1. In equal shares to his or her children and to the issue of any deceased child by right of representation; and if there be no child of intestate living at the time of his or her death, to all his or her other lineal descendants; and if all such descendants are in the same degree of kindred to the intestate, they take equally; otherwise, by representation. 2. If intestate leave no lineal descendants, to his wife; or if intestate be a married woman, to her husband; and if intestate leave no wife nor husband, to his or her father. 3. If intestate leave no lineal descendants, neither husband nor wife, nor father, such real property descends in equal shares to his brothers and sisters, and to the issue of any deceased brother or sister by right of representation; but if intestate leave a mother, she takes an equal share with such brothers and sisters. 4. If intestate leave no lineal descendants, neither husband nor wife, nor father, brother, nor sister, such real property descends to his mother, to the exclusion of the issue of deceased brothers and sisters. 5. If intestate leave no lineal descendants, neither husband nor wife, nor father, mother, brother, nor sister, such real property descends to his next of kin in equal degree, excepting that when there are two or more collateral kindred in equal degree but claiming through different ancestors, those who claim through the nearest ancestor are preferred. 6. If intestate leave one or more children, and the issue of one or more deceased children, and any of such surviving children die under age without having been married, all such real property that came to such deceased child by inheritance from such intestate descends in equal shares to the other children of such intestate and to the issue of any other children who have died, by right of representation. But if all the other children of intestate be dead, and any of them have left issue, such real property so inherited by such deceased child descends to all the issue of such other children of the intestate in equal shares, if they are in the same degree of kindred to such deceased child; otherwise, they take by right of representation. 7. If intestate leave no lineal descendants or kindred, such real property escheats to the United States.

Dower and Curtesy. The widow of every deceased person is entitled to dower, or the use during her natural life of one-third part in value of all the lands whereof her husband died seized of an estate of inheritance.

When any man and his wife are seized in her right of any estate of inheritance in lands, the husband, on the death of his wife, holds the lands for his life as tenant thereof by the curtesy, although such husband and wife may not have had issue born alive.

Evidence. No person may be excluded as a witness on account of being a party or interested in the event of an action or proceedings, having been convicted of a crime, or his opinions on matters of religious belief. Persons of unsound mind and children under ten years of age who appear incapable of receiving just impressions of the fact respecting which they are examined or of relating them truly may not be witnesses. An attorney may not, without his client's consent, be examined as to communications made by his client to him or his advice thereon. A priest may not, without the consent of the person making the confession, be examined as to any confession made to him in his professional capacity, in the course of discipline enjoined by the church to which he belongs. A physician or surgeon may not, against the objection of his patient, be examined, in a civil action, or proceeding, as to information acquired in attending the patient which was necessary to enable him to prescribe or act.

Executions. (See Judgment and Execution.)

Executors and Administrators. When a will is proven letters testamentary are issued to the persons therein named as executors, or to such of them as give notice of their acceptance of the trust and are qualified. Administration is granted as follows: 1. To the widow or next of kin, or both, in the discretion of the court; 2, to one or more of the principal creditors; or, 3, to any other person competent and qualified whom the court may select. If deceased were a married woman administration shall in any case be granted to the husband, if qualified, and he apply therefor. Claims are paid in the following order: 1. Funeral charges. 2. Taxes due the United States. 3. Expenses of last sickness. 4. All other taxes. 5. Debts preferred by the laws of the United States. 6. Debts which at the death of the deceased were a lien upon his property, in the order of the priority of the liens. 7. Debts due for wages earned within ninety days immediately preceding death of decedent. 8. All other claims.

Exemptions. 1. Earnings of judgment debtor, for personal services rendered within sixty days next preceding the levy of execution or attachment, when necessary for the use of his family supported in whole or in part by his labor. 2. Books, pictures, and musical instruments owned by any person, to the value of $75. 3. Necessary wearing apparel owned by any person for the use of himself or family, but watches or jewelry exceeding $100 in value are not exempt. 4. The tools, implements, apparatus, team, vehicle, harness, or library necessary to enable any person to carry on the trade, occupation, or profession by which such person habitually earns his living, to the value of $500; also sufficient quantity of food to support such team, if any, for six months; the word "team" being construed to include not more than one yoke of oxen, or a span of horses or mules, or two reindeer, or six dogs. 5. The following property, if owned by the head of a family and in actual use or kept for use by and for his family, or when being removed from one habitation to another on a change of residence: Ten sheep, with one year's fleece or the yarn or cloth manufactured therefrom; two cows and five swine; household goods, furniture, and utensils to the value of $300; also food sufficient to support such animals, if any, for six months, and provisions actually provided for family use and necessary for the support of such person and family for six months. 6. The seat or pew occupied by the head of a family or his family in a place of public worship. 7. All property of any public or municipal corporation. No article, or the proceeds derived from its sale or exchange, is exempt from execution on a judgment recovered for its price.

Garnishment. (See Attachment.)

Homestead. The homestead of any family, or the proceeds thereof, is exempt. Such homestead must be the actual abode of, and owned by, such family or some member thereof, and not exceed $2,500 in value nor exceed 160 acres in extent, if not located in a town or city laid off into blocks or lots; or if located in any such town or city, one-fourth of an acre. This exemption does not apply to decrees for the foreclosure of any mortgage properly executed; but if the owners of such homestead be married, the mortgage must be executed by husband and wife.

Interest. The legal rate of interest is 8 per cent, but on contracts interest at the rate of 12 per cent may be charged by express agreement of the parties. If usurious interest has been received or collected, the party paying the same, or his legal representatives, may, by action brought within two years, recover double the amount of such interest. If it is ascertained in any action upon contract that an unauthorized rate of interest has been contracted for, judgment must be rendered against the defendant for the amount due, without interest, and against the plaintiff for costs. If the rate contracted for is 8 per cent or less, the debtor may also agree to pay the taxes upon the debt, credit, or mortgage.

Judgment and Execution. A judgment is docketed immediately after entry. At any time thereafter while execution may issue a certified transcript of the docket may be filed in the office of the recorder of any recording district, and from the date of docketing a judgment or transcript thereof the judgment is a lien upon all the real property of the defendant within the recording district or districts where docketed, or which he may afterwards acquire therein during the time an execution may issue. If no execution issues within ten years the lien expires, but is renewed if afterwards leave is given to issue execution and a transcript of the docket of the order docketed with the recorder.

Execution may issue at any time within five years from the entry of the judgment, and thereafter on order of the court made on motion of the party in whose favor the judgment was given. Such motion must be subscribed and verified as a complaint, and summons must be served upon the judgment debtor or his representatives, to which he or they may demur or answer. The order made must be docketed as a judgment. Execution may be against the property of the judgment debtor, his person, or for the delivery of the possession of real or personal property or such delivery with damages. Execution from the district court is returnable within sixty days; from the commissioner's court within thirty days. Until a levy property is not affected by the execution.

Licenses. (See Taxes.)

Liens. Every mechanic, artisan, machinist, builder, contractor, lumber merchant, laborer, teamster, drayman, and other person performing labor upon or furnishing material of any kind to be used in the construction, development, alteration, or repair, either in whole or in part, of any building, wharf, bridge, flume, ditch, mine, tunnel, fence, machinery, or aqueduct, or any structure or superstructure, has a lien upon the same for the work or labor done or material furnished at the instance of the owner of the building or other improvement or his agent; and every contractor, sub-contractor, architect, builder, or other person having charge of the work, in whole or in part, is, for this purpose, deemed the agent of the owner.

Limitations. Civil actions must be commenced within the following periods after the cause of action accrued: Within ten years—action for the recovery of real property, or the possession thereof; upon a judgment or decree of any court of the United States, or of any state or territory within the United States; upon a sealed instrument. Within six years—action upon a contract or liability, express or implied, except judgment or sealed instrument; upon a liability created by statute, other than a penalty or forfeiture; for waste or trespass upon real property; for taking, detaining, or injuring personal property, including an action for the specific recovery thereof. Within three years—action against a marshal, coroner, or constable, upon a liability incurred by the doing of an act in his official capacity or in virtue of his office, or by the omission of an official duty, including the non-payment of money collected upon execution, but not an action for an escape; action upon a statute for penalty or forfeiture, where the action is given to the party aggrieved, or to such party and the United States, except the statute prescribe a different limitation. Within two years—action for libel, slander, assault, battery, seduction, false imprisonment, or for any injury to the person or rights of another not arising on contract; upon a statute for a forfeiture of penalty to the United States. Within one year—action against the marshal or other officer for the escape of a person arrested or imprisoned on civil process; upon a statute for the penalty given in whole or in part to the person who will prosecute, but if not commenced within one year by private party may be within two years by the United States.

Married Women. The property and pecuniary rights of every married woman at the time of marriage, or afterwards acquired by gift, devise, or inheritance, or by her own labor, are not subject to the debts or contracts of her husband, and she may manage, sell, convey, or devise the same by will to the same extent and in the same manner that her husband can property belonging to him. For civil injuries damages may be recovered from a married woman alone, and her husband is not responsible therefor. Contracts may

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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 were unmarried. All laws which impose or recognize civil disabilities upon a wife which do not exist as to the husband are repealed. Wife may record list of her property and such list is prima facie evidence of her separate ownership, and property not so registered is deemed prima facie the property of the husband. Neither husband nor wife is liable for the debts or liabilities of the other incurred before marriage. Husband and wife may make conveyances and transfers and create liens between themselves, and either may constitute the other his or her attorney in fact. A woman becomes of age at twenty-one or upon being married according to law.

Mortgages. Mortgages are executed, acknowledged, and recorded in the same manner as deeds. No covenant is implied for the payment of the sum intended to be secured. Record of assignment is not notice to the mortgagor, his heirs, or personal representatives. Mortgage may be discharged by entry in margin of record signed by mortgagee or his personal representative or assignee and witnessed by the commissioner or deputy, or by certificate executed and acknowledged as other conveyances. Foreclosure is by action of an equitable nature in which a deficiency judgment may be had.

Notes and Bills of Exchange. On all bills of exchange and all negotiable promissory notes, orders, and drafts payable at a future day certain within the district, grace is allowed; but grace is not allowed on bills of exchange, notes, or drafts, payable at sight or on demand.

Records. An unrecorded conveyance of real property is void as against any subsequent innocent purchaser in good faith and for a valuable consideration whose conveyance is first duly recorded. A commissioner is ex-officio recorder of a recording district, the boundaries of which are fixed by the court. Conveyances of lands not in any recording district are recorded with the clerk of that division of the district court within the limits of which such lands are situated.

Replevin. The plaintiff, at any time after the commencement of an action to recover the possession of personal property and before judgment, may claim the immediate delivery of such property upon filing an affidavit showing that he is the owner of the same or entitled to the possession thereof; that the property is unlawfully detained by defendant; the alleged cause of detention; that the same has not been taken for a tax assessment or fine, pursuant to a statute, or seized under an execution or attachment against the property of the plaintiff; or, if so seized, that it is exempt; and the actual value of the property

Service. (See Actions.)

Supplementary Proceedings. (See Judgment and Execution.)

Taxes. Every person or corporation prosecuting or attempting to prosecute any of the following lines of business within the district must first apply for and obtain license so to do from the district court or a subdivision thereof, and pay per annum for such license for the respective lines of trade and business as follows: Salmon canneries, 4 cents per case; salmon salteries, 10 cents per barrel; fish oil works, 10 cents per barrel; fertilizer works, 20 cents per ton; freight and passenger tranportations lines, propelled by mechanical power on inland waters and ocean and coastwise vessels doing local business for hire, $1 per ton on net tonnage; railroads, $100 per mile; tramways, $10 per mile; saw-mills, 10 cents per thousand feet on lumber sawed; quartz mills, $3 per stamp; mercantile establishments and manufactories doing a business of under $4,000 per annum, $10, and in proportion to the amount of business done to $500 for establishments doing a business of $100,000 per annum; in other lines of trade and business the amount is fixed for each and ranges from $10 to $500.

Wills. Every person of twenty-one years of age, of sound mind, may dispose of all his or her property by will, saving a widow's dower and a husband's rights as tenant by the curtesy. Will must be in writing, signed by the testator, or under his direction, in his presence, and attested by two or more competent witnesses subscribing their names in the presence of the testator. A will by an unmarried person is revoked by his subsequent marriage. Children or descendants of children not named or provided for in the will take as if testator had died intestate. A mariner at sea or soldier in military service may dispose of his personal property as at common law. Proof of nuncupative will must be made within six months, and the words or their substance reduced to writing within thirty days after they are spoken. A person owning property in, but not an inhabitant of, the district may devise or bequeath the same according to the laws of his domicile. If such will be probated without the district, copies of the will and the probate thereof, certified by the clerk of the court in which it was probated, with the seal of the court affixed thereto, if there be a seal, together with a certificate of the chief judge or presiding magistrate, that the certificate is in due form, and made by the clerk or other person having the legal custody of the record, may be recorded, admitted in evidence, or contested and annulled as if executed and proved within the district.

SYNOPSIS OF

THE LAWS OF ARIZONA

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by Francis D. Crable, Attorney-at-Law, Flagstaff, Arizona.

Accounts. When stated draw interest; when action is upon itemized account and affidavit of party, his agent or attorney is attached, stating that such "account is, within affiant's knowledge, just and true, that it is due, and that all just and lawful offsets, claimants, and credits have been allowed," is prima facie evidence, unless one day before trial, defendant files written denial of any item under oath.

Acknowledgments. The form of an ordinary certificate of acknowledgment shall be substantially as follows:

"State of Arizona, }ss
County of.....}

This instrument was acknowledged before me this.....day of.....A. D.....by (if by a natural person or persons here insert name or names; if by a person acting in a representative or official capacity, or as attorney in fact, then insert name of person as executor, attorney in fact, or other capacity; if by an officer or officers of a corporation, then insert name or names of such officer or officers as the president or other officer of such corporation, naming it).

A.....B.....
Notary Public. (Or other officer)
(My commission expires.....)"

Every instrument affecting real property in this state executed, acknowledged and certified in any other state or territory in accordance with the laws of such state or territory, shall be valid and entitled to record as if executed in accordance with the laws of this state.

Actions. Distinction in forms between law and equity are abolished. Pleadings are: Complaint and answer, and in some cases a reply.

Administration of Estates. Lie in Superior Court. No public administrator. Where person dies intestate letters shall issue.

Affidavits. May be taken before any officer authorized to take acknowledgments.

Aliens. Unless rights are secured by treaty cannot hold land in the state, may acquire by inheritance, or in ordinary course of justice in the collection of debts; may acquire liens on real estate, may lend money and secure same on real estate, but title so acquired must be sold within five years; may acquire patented mines and hold stock in domestic corporation owning unpatented mines.

The laws provide that the laws of the state pertaining to aliens shall not be construed as to conflict in any manner with any rights existing under and by virtue of any treaty of the United States with any other country.

Appeals. Appeals are allowed from justice of peace to superior court in certain cases and from superior court to supreme court where amount involved is $200 or over.

Arbitration. There are statutory provisions which are not exclusive of the common law arbitration.

Arrest. Abolished in civil cases, debtor fraudulently removing property out of territory or concealing it may be prosecuted criminally.

Attachment. Writ will issue on affidavit showing: 1. That defendant is indebted to plaintiff upon a contract, express or implied, for the direct payment of money and that such contract was made or is payable in this Territory, and that the payment of the same has not been fully secured by mortgage, lien, or pledge of personal property, or if originally so secured, that such security has, without any act of plaintiff or the person to whom the security was given, become valueless, and shall specify the character of the indebtedness, that the same is due to the plaintiff over and above all legal set-offs or counter-claims, and that demand has been made for the payment of amount due: or, 2. That defendant is indebted to plaintiff, stating amount and character of debt; that same is due and payable over and above all legal set-offs and counter-claims, and that defendant is a non-resident of this Territory or is a foreign corporation doing business in this Territory; or, 3. That an action is pending between the parties, and that defendant is about to remove his property beyond the jurisdiction of the court to avoid payment of judgment; and, 4. That the attachment is not sought for a wrongful or malicious purpose, and that the action is not prosecuted to hinder or delay any creditor of defendant. 5. No such attachment shall issue until suit has been duly instituted, but it may be issued in a proper case either at the commencement of the suit or at any time during its progress. 6. The writ may issue, although plaintiff's debt or demand be not due under specified facts of intent to defraud; no final judgment shall be rendered until such debt or demand shall become due. Writ may issue at or after action began upon plaintiff or some one in his behalf filing the affidavit, and upon filing a bond with two sureties in an amount equal to amount sued for Sureties can be compelled to justify upon notice. When more than one attachment is levied on same property writs take priority according to time of levy. (See Liens, Garnishment.)

Banks—Savings and Loan. May be incorporated to loan and invest property. May hold lot and building in which business is carried on to value of $100,000; such as may accumulate on good faith loans and such personal property as may be required in transacting its business. To purchase and convey evidence of debt except national, territorial, and municipal bonds must have a capital of $100,000. Married women and minors may transact business with such banks. Are required to have license and are examined by the bank examiner. Provisions are made for the contents of the charter.

Bills and Notes. The negotiable instrument code adopted by the American Bar Association is in force. Joint obligor may be released without releasing others. (See Holdings.)

Bonds. Any standard surety company, organized under laws of United States or of any state, may execute bonds in judicial proceedings within the state when they have complied with license laws. (See Guaranty Companies.)

Chattel Mortgage. To be valid against others than the parties thereto, chattel mortgage must set out the residence of the mortgagor and the mortgagee, the rate of interest to be paid and time and place of payment of the debt secured, and be accompanied by the affidavit of both mortgagor and mortgagee that the mortgage is bona fide and made without design to defraud or delay creditors. Immediate delivery of the mortgaged property must be made to the mortgagee and the change of possession must be actual and continued, unless the mortgage or a true copy thereof shall be forthwith deposited and filed in the office of the recorder of the county where the property shall then be situated. Removal sale, or other disposition of mortgaged property without consent of mortgagee entities mortgagee to immediate possession of it, and such removal, transfer, or sale, or subsequent encumbrance is felony. If mortgagee permits mortgaged property to be removed to another county, he shall within one month record his mortgage in such other county. Chattel mortgage may be foreclosed in justice court if amount of debt does not exceed $300; otherwise in district court. Mortgagee may obtain possession of property on default and sell after notice which must be served on owner. Upon stock of goods, wares, and merchandise with continued possession in mortgagor, void. If copy is filed with recorder, original must be acknowledged, and copy certified to by county recorder.

Claim and Delivery. (See Replevin.)

Collaterals. No statutory provisions—common law prevails.

Community Property. (See Conveyances.)

Conditional Sales. Where title remains in vendor until purchase price is paid, void as to persons not parties thereto, and persons without notice, unless subscribed, acknowledged, and filed with county recorder.

Contracts. (See Bills and Notes.) One or more obligors on a joint or joint and several instrument may be released without releasing the others, and may be sued separately under certain conditions without releasing the others. Married women may contract as if sole.

Conveyances. Conveyances of estate in lands for term more than one year shall be by instrument in writing subscribed by party making it, or his agent, duly authorized thereto by writing. A conveyance is not effectual against creditors or bona fide purchasers unless recorded in recorder's office in county where land is situate. A conveyance purporting to convey a greater estate than the grantor has passes only the estate that he actually has. A general grant or devise passes the fee unless expressly limited to a less estate. All deeds to realty must be signed by both husband and wife except as to unpatented mining claims. Deeds must be signed and must be acknowledged before some officer authorized to take acknowledgment, and properly certified by him to entitle same to registration. The use of the word

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"grant" or "convey" implies the following covenants and none other: 1. That previous to the time of the execution of the conveyance the grantor has not conveyed the same estate, or any right, title or interest therein, to any person other than the grantee. 2. That such estate is at the time of the execution of such conveyance free from incumbrances. Married women seventeen years of age and upward may convey their own lands without being joined by their husbands. (See Acknowledgment, Dower, Husband and Wife, Homestead.)

Corporation Commission, organized under Chapter 90, First Session, Laws 1912. Has general supervision of corporations.

Corporations in General. Any number of persons may become incorporated for the transaction of any lawful business. Before commencing any business, they must adopt articles of incorporation which shall be signed and acknowledged by them as deeds and be filed in the office of the Corporation commission at the State Capital and a certified copy thereof filed in the office of the County Recorder in each county in the state in which they transact business. The articles of incorporation must contain: 1. The name of corporators, 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, which must not exceed two-thirds of its capital stock. 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. Must be published for six days in some newspaper in the county where the principal business is located. Proof of publication must be filed with the Corporation Commission. Corporations to endure for twenty-five years. Corporation must file in office of Corporation Commission an appointment of agent who is a bona fide resident of this state for three years prior thereto, on whom all notices and process, including summons, may be served and constitutes personal service. Charges for incorporation: Recorder's fees, 20 cents folio. Recorder's fees, certified copy, 20 cents folio. Recorder's fees certificate to copy, 75 cents. Corporation Commission's fees, filing cost copy, $10. Printers' fees per inch, publishing articles six days, 80 cents. Corporation Commission's fees, filing proof, publishing $3.00. Corporation Commission's fees, filing appointment of agent, $5.00. Where charter provides assessments may be levied on shares to par value (1907).

Corporations, Foreign. Before it can transact business it must file certified copy of Articles with Corporation Commission and county recorder in county of principal place of business, also an appointment of agent upon whom a service personal to the corporation may be made.

Corporations, Insurance. May be organized under provision peculiarly applicable to insurance companies.

Corporations, Railroad. Are organized under a statute especially providing for them.

Corporations, Savings and Loan. **(See Banks and Banking.)**

Corporation Stock, Transfer of. Transfer of stock shall not be valid, except as between the parties thereto, until the same is regularly entered upon the books of the company, so as to show the names of the person by whom and to whom the transfer is made; the number of their designation of the shares, and the date of the transfer.

Costs. Plaintiffs who are non-residents, or those who own no property upon which execution may be levied, are required to give security for, within ten days after order made; bonds for, must authorize judgment to be entered against sureties.

Courts. Are the Supreme Court of the State, the U. S. district court for the District of Arizona; one superior court for each County, justices of the peace, recorders of cities. The superior court of the several counties is a court of general jurisdiction, both civil and criminal. It has both original and appellate jurisdiction. Its original jurisdiction extends to all civil cases where the amount involved exceeds $200 exclusive of interest, and in all cases involving the title to or possession of real estate. Justice courts have general jurisdiction when amount in controversy does not exceed $200.00, except when title to real estate is involved. (See Jurisdiction.)

Creditors' Bills. No statutory provisions.

Days of Grace. None.

Depositions. May now be taken either upon oral examination, and cross-examination or upon written interrogatories and cross interrogatories, as is generally provided.

Descent and Distribution. (See Savings Banks.) The law of community property prevails. The separate estate of an intestate, when he or she shall die leaving surviving no husband or wife, shall descend as provided. When an intestate leaves surviving a wife or husband another method is provided. Children of the intestate brothers, sisters, uncles and aunts, take per capita. All property belonging to the community estate of the husband and wife shall go to the survivor, if the deceased spouse have no child or children; if the deceased have a child or children, his or her surviving spouse will take one-half, and the other half goes to such child or children. The community property always passes charged with the debts against it. Intermarriage between man and woman to whom a child or children had before been born, and recognition by the father of such child or children legitimizes the child or children. Bastards inherit from the mother and transmit estates as if legitimate. The statute provides for the adoption of heirs. (See Dower, Husband and Wife, Homestead.)

Dower. Dower is abolished.

Evidence. The common law rules have not been codified. Parties may be examined and the other side not concluded thereby. Statutes of other states and territories purporting to be printed under authority may be read. No one is incompetent to testify because of religious belief. Certified copies of all records in territory may be read. Certified copies of records of all notaries may be read. Court may order inspection or copy of documents.

Executions. Upon a judgment of superior court, executions may be issued to any county. Lien of dates from levy, and if on real property, the description is endorsed on execution and filed with county recorder. A range levy may be made upon all of stock under a certain brand in same manner as upon real estate. (See Judgment, Liens.) Proceedings supplemental to execution—when returned unsatisfied, creditor is entitled to an order requiring debtor to answer concerning his property, but not elsewhere than in the county of his residence. Third parties may, upon affidavit, be required to surrender property. Court or judge may order suit brought to determine the denial of owning or of having property.

Exemptions. Every person who is the head of a family, and whose family resides within this state, may hold as a homestead, exempt from attachment, execution and forced sale, real property to be selected by him or her, which homestead shall be in one compact body, not to exceed in value four thousand dollars, upon filing affidavit designating such homestead in the Office of the County Recorder on county where property is situated. Such homestead exempt from date of filing said affidavit. The following property shall be exempt from execution, attachment and sale on any process issued from any court: 1. The family bible. 2. A seat or pew in any house or place of public worship. 3. A lot in any burial ground. 4. Necessary household, table and kitchen furniture, including viz: 5. The tools or implements of a mechanic or artisan necessary to carry on his trade; etc. 6. The sewing machine and implements of a seamstress actually used in pursuing her vocation. 7. One watch, one sewing machine, one typewriting machine, and one bicycle. 7a. Five milch cows. 8. The camping outfit of every prospector in this state, including his mining tools, saddles and burros. 9. The farming utensils and implements of husbandry of the debtor, etc. 10. Poultry not exceeding in value twenty-five dollars. 11. Two horses and two mules and their harness; one cart or wagon; one dray or truck; one coupe; one hack or carriage for one or two horses or one automobile by the use of which a carman, drayman, truckman, huckster, hackman, teamster, chauffer, or other laborer habitually earns his living, and one horse with vehicle or harness or other equipment used by a surgeon, physician, constable or clergyman in the legitimate practice of his profession, with food for such horses or mules for one month. 12. Fuel necessary for the use of the debtor and his family for the period of six months. 13. The presses, stones, type, cases and other tools and implements used by any person or copartnership in printing or publishing a newspaper or in conducting any printing establishment or by any person hired to use them; not exceeding two thousand dollars in value; together with stock in trade not exceeding four hundred dollars in value. 14. The library and philosophical and chemical or other apparatus belonging to and used for the instruction of youth in any university, college, seminary of learning or school. 15. All moneys received by or payable to a surviving wife or child upon the life of a deceased husband or father, not exceeding ten thousand dollars. 16. All moneys arising from fire or other insurance upon any property exempt from sale on execution. 17. All moneys, relief, or other benefits payable to or to be rendered by any police department association, fire department association, beneficiary association, or fraternal benefit association, and any person entitled to assistance therefrom, or to any certificate holder thereof or beneficiary under such certificate. 18. Any claim for damages recoverable by any person by reason of any levy upon or sale under execution of his exempt personal property or by reason of the wrongful taking or detention of such property by any person, and any judgment recovered for such damages. 19. The earnings of the minor child of any debtor or the proceeds thereof by reason of any liability of such debtor not contracted for the special benefit of such minor child. 20. One half of the earnings of the wages or salary of any person for his personal services rendered at any time within thirty days next preceding the levy of attachment, garnishment or execution when it appears by the affidavit of the debtor or otherwise that such earnings are necessary for the use of the family residing in this state, supported in whole or in part by him. 21. All arms, uniforms and accoutrements required by law to be kept by any person, and also one gun to be selected by the debtor. 22. All fire engines.....of any fire department. 23. All courthouses, jails, etc. The property declared to be exempt by this chapter shall not be exempt from attachment or sale in any action brought or judgment recovered for the purchase price of such property so long as such property remains in the possession of the original purchaser. (See Homestead, Liens.)

Frauds and Fraudulent Conveyances. Agreements must be in writing and signed by the parties to be charged: 1. By an executor or administrator to answer for the debt of his testator or intestate out of his own estate. 2. By a person to answer for the debt, default or miscarriage of another. 3. To charge any person upon an agreement made upon consideration of marriage. 4. For sale of real estate or lease thereof for a term longer than one year. 5. Those which are not to be performed within the space of one year after the making thereof. Every gift, conveyance, or assignment, or transfer, or charge upon any estate, real or personal; any suit commenced on decree, judgment, or executions suffered or obtained, or any bond or other writing given with intent to delay, hinder, or defraud creditors, purchasers or other persons, shall to such persons be void. All bargains, sales, and other conveyances of lands, tenements, and hereditaments, deeds of settlement of marriage, deeds of trust, and mortgages, are void as to creditors and subsequent purchasers, without notice, unless properly recorded. The creditor must be a judgment creditor, and notice must be prior to date of judgment lien. A judgment creditor may be an innocent purchaser. Every gift, conveyance, assignment, transfer or charge made by a debtor which is not upon consideration deemed valuable in law shall be void as to prior creditors, if debtor had not then other property in the State sufficient to pay all his indebtedness. Not on that account, however, void as to subsequent creditors. No gift of any goods and chattels shall be valid unless duly acknowledged, or proven and recorded, or by will, or unless actual possession shall have come to and remained with the donor or some one claiming under him. Fraudulent intent is a question of fact and not of law. Conveyance shall not be adjudged fraudulent merely because not for valuable consideration. If any person shall do or transact business as a merchant or trader, with the addition of the words agent, factor, company, or & Co., or words of like significance or import, and shall fail to disclose the name of his principal, or partner, or other person who may be interested in such business by a sign in letters easy to read, placed conspicuously at the place where such business is transacted, or if any person shall transact business in his own name, without any such addition, all the property, stock, money and choses in action used or acquired in such business except such property as may be exempt from execution, shall, as to the creditors of any such person, be liable for his debts, and be, in all respects, treated in favor of his creditors as his property. Criminal prosecution for fraud is provided. (See Conditional Sale.)

Garnishment. Writ may issue: 1. Where writ of attachment has issued. 2. Upon affidavit that the debt is just due, and unpaid, and that defendant has not, within affiant's knowledge, property in his possession subject to execution sufficient to satisfy such debt, and that the writ is not sued out to injure either the defendant or garnishee. 3. Upon judgment, when affiant makes affidavit that the defendant has not, within his knowledge, property in his possession within this Territory sufficient to satisfy said judgment. Proceedings under subdivision 2 requires a bond in double the amount of the debt, conditioned that plaintiff will prosecute the suit to effect, and pay all damages and costs that may be adjudged against him for wrongfully suing out the garnishment. The proceedings are docketed and judgment rendered as if in an independent proceeding. (See Attachment.)

Holidays. Legal holidays are January 1, February 14, February 22, July 4, October 12, Thanksgiving, May 30, December 25, Arbor day, Labor Day, every Sunday and general state election day, or any special election day that may be called by the governor, and any day appointed by the president or 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 14, February 22, July 4, October 12, December 25, or May 30, and Arbor Day, shall fall upon Sunday, then the Monday following shall be considered as a legal holiday. Writs of injunctions, attachments, replevin, and prohibition may be issued and served on.

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Homestead. Deed to, must be signed by husband and wife. (See Exemptions.)

Husband and Wife. All property, both real and personal, of the husband or wife, owned or claimed by him or 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 his or 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 same legal rights as men of the age of twenty-one years and upwards, except the right to make contracts binding the common property of the husband and wife; and shall be subject to the same legal liabilities. (See Dower, Conveyance.)

Injunction. Is issued, where party is entitled to relief and restraint, is required of some prejudicial act; where, pending litigation, an act is done which tends to render judgment ineffectual, and when applicant is entitled under principles of equity. Under certain conditions may be granted ex parte at chambers or by consent. Bond may be fixed by judge and approved by clerk, except to restrain collection of money judgment, when it must be double the amount of such judgment.

Injuries—Personal. Employer's Liability and Compulsory Compensation laws in force.

Insurance. (See special chapter pertaining to Insurance.)

Interest. May contract, in writing, for any rate of, not exceeding 10 per cent per annum. Any rate exceeding this is usurious. When no express contract, on bond, bill, note, or instrument of writing, or judgment, for money lent, or due on settlement of accounts from date of ascertained balance, and money received for use of another, interest is computed at 6 per cent per annum.

Judgments. Judgments of superior courts become a lien upon all real estate of judgment debtor in the county as soon as entered and docketed. Upon filing with the clerk of the superior court a transcript of judgment from justice court or of superior court of another county, the same becomes a lien on all real estate of judgment debtor in the county. No execution can be issued on any judgment after the expiration of five years from the date of its rendition and entry, unless such judgment be revived by scire facias or action for debt be brought thereon within such five years.

Judicial Bonds. (See Bonds.)

Levy. (See Executions.)

Licenses. For gambling prohibited.

Liens. All persons who may labor or furnish materials in the construction or repairing of any building, superstructure, canals, dams, mines, or other improvement, or cuts cordwood, shall have a lien on the same, and in case of buildings and superstructures, 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 sixty 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. Laborers' and like liens are preferred to all subsequent liens, mortgages, and incumbrances, and such as lien claimant had no notice. Suit to foreclose such liens must be commenced within six months after filing the same in the recorder's office. In case of the levy of writ of attachment or execution, clerks, laborers, and employes of debtors have a preference claim for wages for services performed sixty days before levy of writ, not exceeding $200, upon filing notice of claim unpaid with creditor, debtor, and officer executing writ. Proprietors of hotels, boarding houses, and lodging houses have special lien on all property or baggage deposited with them by guests for price of guests' entertainment. Agister and liveryman have lien by statute. (See Judgment, Mortgage.)

Limitations. To recover realty against person in peaceable and adverse possession under color of title, three years; against such possession where person pays taxes and has deed recorded, five years, otherwise ten years; to recover lots in city or village against person having recorded deed, and pays taxes, five years; where party in possession claims by right of possession only, two years. Personal Actions—One year: Personal injuries, malicious prosecution, false imprisonment, libel, slander, seduction, breach of promise. Actions for relief on the ground of fraud; must be brought within one year from discovery of fraud. Two years: Trespass to property, detention or conversion of personal property to own use, taking and carrying away goods and chattels; and injuries to person where death ensues, to accrue from date of death. Three years: Actions for debt not in writing; on stated or open accounts other than mutual between merchants or their factors and agents; all accounts, except as between merchants and factors and agents, limitations run from date of each item of delivery. Four years: For penalties or damages on any bond to convey real estate; between partners for settlement of partnership accounts; on mutual or current accounts between merchants, their factors or agents, to accrue from cessation of dealings; upon judgment or instrument without the Territory; debt evidenced by writing within the Territory; bonds of executors, administrators, or guardian, after death, removal, etc.; specific performance; to contest will after discovery of fraud; and where no provision is otherwise made. Five years: On domestic judgment where execution has been issued within one year after rendition.

Mines unpatented are real estate for the purpose of inheritance and conveyance. Location requires seven monuments, three at each end, and one at discovery, in which notice is to be placed on discovery; title work consisting of a shaft 4 x 6 x 8 feet deep, or its equivalent in an open cut so that mineral in place is discovered 8 feet from the surface must be done and notice recorded within three months, and annual assessment work amounting to $100, maintained each year thereafter, until patent is ordered.

Minors. (See Savings Banks.)

Mortgages. Mortgage may contain power of sale. Whether it does or not, mortgage may be foreclosed by suit in superior court. Failure of mortgagee to lawfully release a satisfied mortgage for seven days after demand for the release, subjects him to liability for $100 and actual damages. Mortgages on real estate are executed, acknowledged, and recorded as conveyances of real estate. (See Conveyances, Chattel Mortgage, Acknowledgments, Redemption.)

Notary Public. In all certificates and acknowledgments the date of expiration of commission must be stated, as "commission expires—" No certificate of holding office, etc., is required when notary acts in foreign state or country.

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

Partnerships using fictitious name may file certificate showing names of partners with county recorders. Foreign partnerships may do so.

Powers of Attorney. No special statutory provisions relative to. To confess judgment must be executed subsequent to maturity of debt confessed, and must be acknowledged. To convey lands or release mortgages should be acknowledged as deeds, and recorded.

Probate Law. (See Savings Banks and Administration of Estates.)

Protest. Liability of drawer or indorser of bill or note maybe fixed by regular protest and notice, etc., according to the usages and custom of merchants. (See Bills and Notes.)

Records. The superior courts of each county are courts of record. The recorder's office in each county relates to titles of real estate and personal property, and probably record instrument therein is notice. The minutes of the Sanitary Live Stock Board are notice of all brands and marks of live stock.

Redemptions. From sheriff or judicial sales, six months, by debtors or successors in interest; any lien holder may redeem within three months thereafter by serving and filing statutory notice, by serving notice in five days after end of said six months. The same rule applies to foreclosure of mortgages and trust deeds whether by court or under powers of sale.

Replevin. For possession of specific personal property which has not been seized under any process, execution or attachment against the property of the plaintiff.

Sales. The "uniform sales law" is in force.

Seals. Addition or omission of seals or scrolls to instruments of writing in no way affect the force and validity of the instrument. Instruments executed by corporations must have a corporate seal attached.

Service. All summons upon persons shall be personal, or by leaving a copy with copy of complaint at the usual place, of residence of defendant, with a member of his family over the age of sixteen years; against incorporated city, or town, or village; upon major, clerk, secretary, or treasure; against incorporation or joint stock association, upon president, secretary, or treasurer, director or local agent representing company, or by leaving a copy of summons and complaint at the principal office during office hours; upon any railroad, telegraph, or express company, or any agent of such company who resides in or may be found in the county where suit is brought; upon domestic corporation by serving on statutory resident agent, and where there is no officer upon whom service can be made in the State, service may be had by delivering duplicate copies of summons and complaint to the secretary of the Corporation Commission, and upon foreign corporation by delivery to statutory agent. Personal service of summons may also be had by serving upon defendant by registered mail, as provided in statutes.

Suits. (See Actions.)

Taxes. Aside from those levied by legislative enactment for specific purposes, as for the construction and maintenance of public institutions, etc., State taxes are levied by the State Board of Equalization; county taxes by the boards of supervisors of the several counties, and city taxes by the common councils of the various cities. Railroads are valued for the purpose of taxation by the State Board of Equalization. Other property is valued by county assessors. The assessing of value begins in February of each year. Taxes are levied on the third Monday of August in each year. The lien attaches on the first Monday of February in each year. Taxes become due not later than the third Monday in September, and become delinquent if not paid on the third Monday of December. The penalty for delinquency is 5 per cent. Within 60 days after delinquency action may be commenced in district court to foreclose delinquent real estate tax liens, and property sold as under execution. Personal property tax is collected by distress warrant. Taxes after delinquency draw interest at one per cent per month after action commenced to foreclose tax lien penalty of twenty-five per cent is added. There is doubt about the right to redeem from tax sales.

Warehouses. Personal property in, may be sold for unpaid charges.

Transfer of Corporation Stocks. (See Corporations.)

Wills. Wills must be in writing, signed by the testator, or by someone 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. Nun-cupative wills may be made when property willed does not exceed in value $50, 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. Wills are revocable by subsequent will, codicil, or declaration in writing, executed with like formalities as in execution of will, or by testator destroying, canceling, or obliterating the same, or causing it to be done in his presence, or by subsequent marriage, and no provision is made for wife. Foreign wills, the probate whereof is duly authenticated, may be probated here. Contests of wills can not be initiated after one year from date of probating.

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SYNOPSIS OF

THE LAWS OF ARKANSAS

RELATING TO

BANKING AND COMMERCIAL USAGES.

Revised by MANNING, EMERSON & MORRIS, Attorneys at Law, Little Rock. (See Card in Attorneys' List.)

Accounts verified by the plaintiff as just and correct prove themselves in suits thereon unless denied under oath.

Acknowledgments may be taken within the State before the supreme or circuit court, or a judge thereof, or clerk of any court of record, or a justice of the peace or notary public; elsewhere in the United States before any court having a seal, or clerk of such court, notary public, mayor having a seal, or commissioner of Arkansas; without the United States before any court having a seal, mayor of a city having a seal, United States consul, or any officer authorized by the laws of such country to probate conveyances of real estate, provided he has a seal.

Actions. Suits are prosecuted under a reformed code of civil procedure differing from the New York code chiefly in maintaining the distinction between law and equity.

Administration of Estates. Executors and administrators must be residents of the State and must give bond in double the value of the property. Foreign executors and administrators can maintain actions in our courts. Claims are paid in the following order: First, funeral expenses; second, expenses of last illness; third, judgments which are liens on the lands of the deceased; fourth, demands presented within six months; fifth, demands presented within one year. All demands not presented in one year are barred. Demands must be authenticated by an affidavit to the effect that nothing has been paid or delivered toward their satisfaction except what is credited thereon, and that the sum demanded, naming it, is justly due. Demands must first be presented to the executor or administrator, and if disallowed by him may be presented to the probate court, or sued upon in any court of competent jurisdiction. Notes and debts secured by mortgages or deeds of trust must be probated as any other claim, and if not presented to the executor or administrator within one year after appointment, are barred by the statute of non-claim of one year. When the note or debt is barred this carries with it a barring of the mortgage or deed of trust given to secure the notes or debts."

Affidavits in this State are made before a judge, justice of the peace, notary public, or clerk of the court; without the State before a judge, mayor, notary public, justice of the peace or commissioner for this State.

Aliens may hold and transmit property in all respects as residents.

Arbitration. Controversies may be submitted to arbitration, and the award of the arbitrators is filed in court, and is subject to review on equitable principles only, and not for matters of form. When not set aside they are entered of record and become the judgment or decree of the court.

Arrest. Defendants may be arrested for debt only when the plaintiff files an affidavit charging that the debt was fraudulently contracted; that it is just, giving its amount, and that he believes that the defendant is about to depart from the State, and, with intent to defraud his creditors, has concealed or removed from the State his property or so much thereof that the process of the court after judgment can not be executed; or that the defendant has money or securities in the possession of himself or of others for his use, and is about to depart from the State not leaving sufficient property therein to satisfy the plaintiff's claim. Bond must be given conditioned to pay the defendant all damages that he may sustain if wrongfully arrested.

Assignments for the Benefit of Creditors may be general or partial, with or without preferences, and where all the debtor's property is conveyed, may exact releases as a condition of preference. The assignee must file an inventory of the property assigned and give a bond conditioned that he will execute the trust confided to him, sell the property to the best advantage and pay the proceeds to the creditors mentioned in the assignment according to its terms, and faithfully perform his duties according to law. He must sell within 120 days all property except the choses in action, which he is required to collect, the sale to be at public auction after thirty days' notice. Assignments are vitiated by the fraud of the assignor alone or by any provision varying from the requirements of the statute. Attacks upon them are made by proceedings in equity, and, if they are set aside, the proceeds are distributed equally among all the creditors. Assignees close up their accounts under the direction of the chancery courts. Corporations can not prefer creditors

Attachments may be sued out where the defendant is a foreign corporation or non-resident, or has been absent from the State four months, or has left the State with intent to defraud his creditors, or has left the county of his residence to avoid the service of summons, or conceals himself so that summons can not be served on him, or is about to remove or has removed a material part of his property out of the State, not leaving enough to satisfy his creditors, or has sold, conveyed or otherwise disposed of his property, or suffered it to be sold with the fraudulent intent to cheat, hinder, or delay his creditors, or is about so to do. It is obtained by filing an affidavit stating the nature of the plaintiff's claim, that it is just, its amount and the existence of the ground, and by giving bond conditioned to pay all damages the defendant may sustain if the attachment is wrongfully sued out. The defendant is allowed to traverse the attachment, and the affidavit and traverse then stand as pleadings upon which the issue is tried. If the attachment is dissolved, the defendant may have an assessment of damages upon the bond in the same suit. Persons claiming the attached property may interplead in the same action. Attachments may be sued out before the debt is due where the defendant has sold conveyed, or otherwise disposed of his property, or permitted it to be sold with the fraudulent intent to cheat, hinder or delay his creditors, or is so to do, or is about to remove his property, or a material part thereof, out of the State with the intent of cheating, hindering or delaying his creditors.

Banks. Banking may be carried on by individuals or by corporations organized under the general incorporation law of the State, or by national banks. The State laws prescribe no special regulations for banking. Officers and employes of banks are criminally liable for making false reports, and for receiving deposits knowing bank to be insolvent.

Bills. Exchange and Promissory Notes. The Negotiable instruments Law went into effect on April 22, 1913.

No person can be charged as an acceptor of any bill of exchange unless his acceptance shall be in writing. If the acceptance is written on another paper than the bill, it shall not bind the acceptor except in favor of the person to whom such acceptance shall have been shown, and who, on the faith thereof, shall have received the bill for a valuable consideration. Every holder of a bill presenting it for acceptance may require an acceptance on the bill; otherwise the bill can be protested for non-acceptance. Notwithstanding the above provisions any one promising to accept a bill is liable to any person to whom a promise to accept it may have been made; and who, on the faith of the promise, has drawn and negotiated the bill. Any person on whom a bill is drawn, and to whom the same may be delivered for acceptance, who shall destroy it or refuse within twenty-four hours or such time as the holder may allow to return the bill accepted or not accepted to the holder, shall be deemed to have accepted the same. The following are the holidays: Sunday, Christmas, Fourth day of July, Washington's Birthday, Lee's Birthday, January 19th, and the first Saturday of March each year, Arbor Day and Thanksgiving Day When the bills become due on any of these days, they are payable the next succeeding business day. Instruments falling due (or becoming payable on) Saturday are to be presented for payment on the next succeeding business day; except that instruments payable on demand may be presented for payment before 12 o'clock on Saturday if it is not a holiday. The following damages are allowed where a bill is protested for non-acceptance or non-payment: If the bill is drawn on any place in this State, 2 per cent; if payable in the states of Alabama, Louisiana, Mississippi Tennessee, Kentucky, Ohio, Indiana, Illinois, or Missouri, or any point on the Ohio River, 4 per cent; if drawn on any other place in the United States, 5 per cent; if beyond the limits of the United States, 10 per cent. If the bill be drawn by any person at any place within this State, at the rate of 2 per cent; if drawn by any person at any place without this State, but within the limits of the United States, 6 per cent; if drawn by any person without the limits of the United States, 10 per cent. The holder of any bill protested for non-payment or non-acceptance is entitled to costs of protest and interest at the rate of 10 per cent per annum on the amount of the bill from date of protest. The term Bill of Exchange includes all drafts or orders drawn by one person on another for the payment of a sum of money specified therein. Bills and notes given for patented machines, implements, substance, or instruments of any kind, given to any citizen of this State, are not commercial paper, unless executed on a printed form, and showing for what consideration they were executed. This applies to patent rights and rights to use any patented thing of any kind. But this provision does not apply to merchants and dealers who sell patented things in the usual course of business. All blank assigments are taken to have been made on such day as shall be most to the advantage of the defendant. In other respects the general rules of commercial law apply.

Bills of Lading. (See Warehouse Receipts and Bills of Lading.)

Collaterals are governed by the law merchant.

Contracts touching commercial matters are governed by the law merchant.

Conveyances may be either witnessed by two witnesses or acknowledged. (See Acknowledgments.) If witnessed they are proved by the oath of two witnesses, and are then entitled to record as though acknowledged. Dower can be relinquished only by the wife joining the husband. The wife may convey property acquired since October 30, 1874, by deed as a single person without her husband joining her, or by joining with him in the form above. The wife may convey by power of attorney and make executory contracts of sale. Deeds which have been recorded and are properly acknowledged prove themselves. Any substantial departure from the form of acknowledgments prescribed by the statute, such as the omission of the words "consideration" or "purposes," makes the acknowledgment and record void; but statutes have been passed from time to time curing defective acknowledgments previously made. Such a statute was passed in 1907. A new Curative Act was passed and approved February 10, 1911.

Corporations are organized only under general incorporation laws. Business corporations must consist of not less than three persons who shall elect a board of directors. The president and secretary are to be elected by the board and the president must be a member of it. The secretary and treasurer must reside and keep the books of the company within the State. The articles of association must be signed by the president and a majority of the directors, and must be accompanied by a certificate signed in a like manner and sworn to by the president and a majority of the directors, setting forth the purpose of the corporation, the amount of its capital stock, the amount actually paid in, the names of its stockholders and the number of shares held by each respectively, and the articles and certificate must be filed in the office of the clerk of the county in which the corporation is to transact business and then with the clerk's endorsement in the office of the secretary of State. The stock can be transferred only upon the company's books, and a record of the transfer has to be deposited with the county clerk in order to be valid as against creditors of the transferor. The corporation has a lien on its stock for debts due from the stockholders. The president and secretary are required to file with the county clerk an annual statement of its financial condition, and in case of a failure to do so become liable for its debts. If the directors declare a dividend when the corporation is insolvent they become liable for all the corporate debts. Any corporation which is insolvent or has ceased to do business may be wound up on the suit of any creditor or stockholder by a decree of the chancery court. Preferences by insolvent corporations are forbidden. Shares of stock are in denominations of $25 or $100. Before any corporation, foreign or domestic, can do any business in this State, an annual franchise tax must be paid to the State Treasurer, to-wit: One-fifteenth of one per cent each year upon the proportion of the outstanding capital stock of the corporation represented by property owned and used in business transacted in this state.

Every corporation doing business for profit and organized as a mutual life, fire, accident, surety, health or other insurance company not having a capital stock and not organized for charitable purposes shall pay an annual tax of $100.00.

All foreign or domestic insurance companies, of whatsoever nature, doing business in this state and having an outstanding capital stock of less than $500,000 shall pay an annual tax of $100; and such companies having a capital stock of $500,000 or more an annual tax of $200, this tax being in lieu of the tax on the capital as provided in other cases.

Every investment company, foreign or domestic, except National banks and corporations not organized for profit, incorporated or unincorporated, which shall sell or negotiate the sale of any stocks, contracts, bonds or other securities of any kind or character other than bonds of the United States, or of some municipality authorized to issue bonds of the State, and notes secured by mortgages on real estate located in the State, or sell building stock or loan investments' shall file in the office of the Bank Commissioner, together with a fee of $5.00, in addition to the fees required of all incorporations, the following documents: A statement showing in detail the plan upon which it proposes to transact business; a copy of all contracts, bonds or other instruments which it proposes to make with or sell to its contributors; a statement showing name and location of company and an itemized account of its actual financial condition and any other such information which the Bank Commissioner may require; if such company be a co-partnership or unincorporated association, it

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shall also file a copy of its articles of co-partnership or association and all other papers pertaining to its organization; if it be an Arkansas corporation it shall file a copy of its articles of incorporation, constitution and by-laws and all other papers pertaining to its organization; if it be organized under the laws of any other state or territory or government, incorporated or unincorporated, it shall file a copy of the laws of such state or government under which it exists or is incorporated, and also a copy of its charter, articles of incorporation, constitution and by-laws and other papers pertaining to its organization.

The Bank Commissioner shall examine all such papers and may admit or reject such company in his discretion; a company rejected, or whose right to do business is revoked by the Bank Commissioner, may, within twenty days, appeal to the chancery court of any county in the state where its principal office is located or principal agent resides If it be found that the refusal or revocation was justified, the cost shall be paid by the company; otherwise by the state as provided by statute.

Any individual or persons, co-partnerships, corporation, companies or association, domestic or foreign, which shall sell any building or investment contracts or like securities on which payments are to be made from time to time, shall first enter into a bond with the State of Arkansas in the sum of $20,000 for the faithful performance of its contract.

Foreign Corporations shall, before doing business in the State, by its president file in the office of the secretary of State a certificate under the seal of the company naming an agent, who shall be a citizen of this State upon whom service of process can be made. The certificate shall state the principal place of business of the corporation; and service on the agent shall bind it. The corporation must also file a certified copy of its charter together with a statement of its assets and liabilities, and the amount of its capital employed in this state in the office of the secretary of State, and in the office of the county where it opens an office, and must pay same fees as are required of home corporations. It must also file a resolution of its board of directors consenting that service of process on any of its agents or on the secretary of State shall be a good service. If it sues in the federal court or removes a suit there without consent of its adversary, its right to do business is revoked. Doing business here without compliance with the law subjects the corporation to a fine of not less than $1,000. These requirements do not apply to railroad or telegraph companies that had built lines in the State prior to Feb. 16, 1899. If any corporation fails to appoint an agent, service of process on the auditor of State shall bind it. No foreign corporation can sue on any contract made in this State until these provisions are complied with.

Courts. The supreme court is held at Little Rock and has jurisdiction of appeals from the circuit and chancery courts. In all counties separate courts of chancery have been established. The estates of deceased persons are entrusted exclusively to the probate courts, with right of appeal to the circuit and thence to the supreme court. Claims against counties are heard by the county court, as also matters touching paupers and the like The justices' courts have jurisdiction of matters of contract not exceeding $300, and matters of tort not exceeding $100. Two terms of the circuit and chancery court and four of the county and probate courts are held in each county per year.

Deeds. (See Acknowledgments and Conveyances.)

Depositions may be taken in the State before any judge or clerk of a court of record, justice of the peace, mayor, or notary public; out of the State before a commissioner for this State, judge, justice of the peace, mayor, notary public, or person commissioned by the court or by consent of parties.

Descents and Distributions. Property descends to children and their descendants in equal parts; if no children, then to father, then to mother, then to brothers and sisters and their descendants in equal parts, and in default of such to the nearest lineal ancestor or his descendants in equal parts per stirpes. Illegitimate children inherit and transmit an inheritance from the mother in the same manner as if legitimate. If the parents of illegitimate children subsequently intermarry and the father recognizes them as his, they shall be deemed legitimate. In default of heirs the whole property goes to husband or wife, and in their default to the State. If the estate is ancestral it goes to the blood of the ancestor from whom it was derived. Relations of the half-blood inherit equally. Heirs take as tenants in common.

Dower. Where there are children the wife takes one-third of the husband's personal estate absolutely and one-third of the real estate of which he was seized at any time during the marriage, for life. Where there are no children she takes in a new acquisition one-half of the real and personal estate absolutely as against heirs, or one-third absolutely at against creditors. If it is an ancestral estate, she takes one-half for life against heirs and one-third for life against creditors.

Executions from the circuit court are returnable in sixty days. those from justices' courts within thirty. They may be stayed for six months by giving bond. They are a lien on the property of the defendant in the county from the time they come to the officer's hands. The officer before levying on personal property, the title to which is doubtful, may require the plaintiff to give him an indemnifying bond, and then suit must be brought by the claimant upon the bond. The defendant and other judgment creditors have one year in which to redeem from the sale of real estate. In case the writ is returned nulla bona the plaintiff may proceed by bill of discovery against the defendant and examine him on oath, and enforce a surrender of concealed property by imprisonment.

Exemptions. Unmarried persons are entitled to $200 and married persons and heads of families to $500 in selected articles of personal property as exempt against debts by contract. Persons who are married or heads of families are entitled to a homestead as against all debts, except the purchase-money, specific liens, laborers' and mechanics' liens, taxes and claims for trust funds converted. The homestead in the country is not to exceed 160 acres, and in town not to exceed one acre, nor to be worth more than $2,500, but the country homestead is not to be reduced to less than 80 acres nor the town homestead to less than one-fourth of an acre, regardless of value. The homestead goes to the widow and minor children after the husband's death. The homestead can only be conveyed by deed in which the wife joins and which is acknowledged by her, and if the husband neglects to claim the homestead the wife may do so.

Fraud. The English statute of fraudulent conveyances has been re-enacted in this State.

Garnishments may be sued out pending suit upon giving bond in double the amount garnished, or after judgment without bond.

Holidays. (See Bills of Exchange and Promissory Notes.) The 3d day of June is made a legal holiday.

Husband and Wife. (See Married Women.)

Injunctions may be issued by circuit judges, chancellors, or the judge of any court in which suit is brought. The person applying for the injunction must give bond as the court or judge may direct.

Insolvency. Any insolvent debtor may apply to the chancery court for the appointment of a receiver, who may have all attachments dissolved, take possession of all the debtor's assets, and pay the proceeds, first, to laborers and employees whose claims may have accrued within three months, second, to all creditors who will execute a release, and third, to the creditors generally

Interest. The legal rate of interest is 6 per cent, but parties may contract in writing for not exceeding 10 per cent. Interest exacted in excess of 10 per cent forfeits the debt. In computing the interest commissions paid to the agent of the lender are counted as interest. Where usury is charged the borrower may go into equity and have the debt and securities cancelled without tendering the amount lawfully due. Judgments bear the same rate of interest as the obligation sued on. Judgments against counties bear no interest.

Judgments (See Interest) are liens upon the real estate of the debtor in the county where rendered for three years. The lien may be renewed and continued for three years by scire facias. Judgments of the United States and other courts can be made liens on lands in counties other than that where they are rendered by filing a certified copy in the office of the circuit clerk.

Jurisdiction. (See Courts.)

Liens. Mechanics, builders, artisans, laborers, and others doing any work upon or furnishing any material for any building or erection under any contract with the owner or his agent, contractor or subcontractor, shall have for such work or material furnished a lien on the building or improvement together with the land on which it stands to the extent of one acre if in the country; if in a city the lot or land upon which the erection is situated. Hotel keepers have lien on baggage and personal effects of guests. Liveryman have lien on all stock and property left in their care.

Limitations. Suits for the possession of real estate must be brought within seven years, saving to minors, married women, and lunatics three years after their disabilities are removed. Actions for recovery of lands sold at judicial sales must be brought within five years, saving to minors and lunatics three years after removal to disabilities. Actions for the recovery of lands held under tax title must be brought in two years. Actions for forcible entry and detainer, on contracts not in writing, for trespass and for libel, within three years. Actions for criminal conversation, assault and battery, false imprisonment, and slander, within one year. Actions on written instruments, within five years; on judgments, within ten years; on bonds of executors and administrators, within eight years. In all cases, except actions for the recovery of lands, minors and lunatics have, after removal of their disability, the statutory period in which to sue. Verbal promises or acknowledgments do not take a claim out of the statute. One year is allowed after dismissal of a suit in which to begin a new action. No person can avail himself of a disability which did not exist at the time the right of action accrued. No endorsement of payment made by the payee or on his behalf is sufficient proof to take the case out of the statute.

Limited Partnerships may consist of one or more general, and one or more special partners. The latter of whom shall constitute in cash a specific amount as his share of the capital, beyond which he is not liable for firm debts. Those forming such partnership must make and file in office of circuit clerk of county, and principal place of business, a certificate showing name of firm, names of partners, distinguishing between general and special, nature of business, amount of capital contributed by each partner, period of commencement and termination of partnership. Business to be conducted by general partners and suits brought by or against them.

Married Women. The property, real and personal, of married women remains their separate estate as long as they choose, and may be devised or conveyed without the husband's assent, and is not subject to his debts. If she dies without making any disposition of her real estate, he is entitled to curtesy. She may carry on any business or perform any services on her own account, and her earnings are hers, and she may sue alone in respect of her separate property. She can bind herself by contract only in reference to her separate estate or business. She can not enter into partnership with her husband. If she does not file a schedule of her personal property, the burden of proof is on her to show that it is hers.

Mines and Mining. Under control of commissioner of mines. All documents relating to mines must be recorded in the recorder's office of the county; and miners of the county may make by-laws regarding the time, manner, and amount of work necessary to hold claims and other rules and regulations not in conflict with law. Extensive provisions are made for the protection of the health and safety of miners. (Acts 1893, p. 213). Miners have a lien on the output, machinery, and tools used to secure payment for work done. Three years' possession of a mine, with work required by law, gives possessory right.

Mortgages are not liens as against any one, though such person has actual notice of their existence, until they are acknowledged in the form prescribed and filed for record. Mortgages of real estate are recorded in the county where the land lies, and mortgages of personal property in the county of the mortgagor's residence. If the mortgagor of personality is a non-resident the mortgage is recorded in the county where the property is situate. Sales under mortgages and deeds of trust can be made only after appraisement, and the property must bring two-thirds of the appraised value. In case it is offered and fails to bring the required amount real estate may be offered again after one year and personal property after sixty days, and is then sold for what it will bring. The mortgagor of real estate has one year from the date of sale in which to redeem. In action to foreclose a mortgage, it is sufficient defence that the debt (which it recites), is barred by statute of limitations.

Chattel Mortgages may be acknowledged and filed as other mortgages, or they may be endorsed "This instrument is to be filed but not recorded," signed by the mortgagee, and may then be filed in the recorder's office with the same effect as though recorded. Mortgages of personal property reserving in the mortgagor the power of disposition are fraudulent.

Mortgages and Deeds of Trust may be enforced by foreclosure at any time within the period prescribed by law for foreclosing mortgage or deed of trust so far as the property mentioned and described in such mortgage or deed of trust is concerned, but no claim or debt against the estate of a deceased person shall be probated against such estate whether secured by mortgage or deed of trust or not except within the time prescribed by law for probating claims against said estate.

Powers of Attorney. Lands may be conveyed by power of attorney, which is acknowledged as deeds and recorded in the county where the lands lie.

Probate Law. (See Administration of Estates.)

Protests. (See Bills of Exchange and Promissory Notes.)

Records. (See Acknowledgments, Conveyances, Mortgages, Chattel Mortgages, and Powers of Attorney.)

Redemption. (See Executions and Mortgages.)

Replevin. The plaintiff in replevin may file an affidavit describing the property, stating its value and the amount of damages he expects to recover, his title, that the property is wrongfully detained by the defendant, that it has not been taken for a tax or under process against plaintiff, and that his cause of action has accrued within three years, and upon giving bond in double its value, the property shall be taken from the defendant and given to the plaintiff pending the suit, unless the defendant within two days after it is taken gives a cross-bond.

Revision. The last revision of the statutes was in 1904.

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Taxes are a lien between vendor and purchaser from the first Monday in December. They are payable between the first Monday in January and the 10th of April. In case of non-payment a penalty of 25 per cent is added. Lands may be redeemed within two years by paying taxes, penalty, and costs, with 10 per cent interest. Minors, lunatics, and persons in confinement may redeem within two years after their disability is removed. (See also Corporations.)

Testimony. (See Evidence.)

Transfer of Corporation Stock. (See Corporations.)

Trust Companies must have a paid-up capital of $50,000, and in counties with a population exceeding 50,000, they must have a subscribed capital of not less than $100,000. They may exercise all the powers commonly conferred on such companies.

Wages. No assignment or order of wages to be earned in the future to secure a loan of less than $200, shall be valid against any employer or the person making such assignment or order, until such assignment or order is accepted in writing by the employer and the said assignment or order and the acceptance of same has been filed with the recorder of the county where the party making the assignment or order resides, if a resident of the state where he is employed.

No assignment or order of wages to be earned in the future shall be valid when made by a married man unless the written consent of his wife to making such an assignment or order for wages shall be attached.

Warehouse Receipts and Bills of Lading shall not be given except where the commodities mentioned are received on the premises, and are under the control of the warehouseman at the time of its issuance. No warehouseman shall sell, encumber, ship, or remove any such commodity for which a receipt has been given without the written assent of the holder of the receipt. The same provisions cover owners and agents of boats and vessels. All warehouse receipts and bills of lading are made negotiable by written endorsement and delivering the same as bills of exchange and promissory notes, and no printed or written conditions, clauses, or provisions inserted in or attached to them shall in any way limit their negotiability or impair the rights and duties of the parties thereto, or persons interested therein, or such conditions shall be void. Warehouse receipts given by any warehouseman or other person for goods and other commodities deposited, and all bills of lading given by any carrier, boat, vessel, railroad, transportation, or transfer company may be transferred by endorsement and delivery; and the transferee shall be deemed to be the owner of such commodities so far as to give validity to any pledge, lien, or transfer given, made, or created thereby; and no property so stored or deposited shall be delivered except on surrender and cancellation of such receipts and bills of lading, unless such receipts and bills of lading have the words "not negotiable" plainly written or stamped on their face. A carrier may however deliver to shipper or consignee goods without presentation of bill of lading upon receiving from such shipper or consignee bond in double the value of the goods conditioned for delivery to the carrier thereafter the original bill of lading (acts 1907). Penalties are denounced against any warehouseman or other person who shall violate any of the provisions of this statute. So much of the act as forbids the delivery of property except the surrender and cancellation of the original receipt or bill of lading shall not apply to property replevined or removed by operation of law.

Wills. A will must be subscribed by the testator or by some person for him at his request in the presence of two attesting witnesses, or he must acknowledge it to be his will to each of them. He must declare at the time of his subscription or acknowledgment to the witnesses that the instrument is his will and testament. The witnesses must sign their names at the end of the will as witnesses at the request of the testator. If, however, the entire will is in the hand-writing of the testator, it need not be attested, but may be proved by three witnesses familiar with the hand-writing. Such will, however, can not be pleaded in bar of an attested will. Wills are revoked by marriage and birth of issue, unless provision for such issue is made by settlement, or is provided for in the will. The will of an unmarried woman is revoked by her marriage. Afterborn children, not mentioned in the will, take their regular distributive share. If the testator fails to mention in his will any child, or its legal representatives, living at the time of executing the will, he shall, as to such child, or its representatives, be deemed to have died intestate, and such child, or its representatives, is entitled to its regular share.

SYNOPSIS OF

THE LAWS OF CALIFORNIA

RELATING TO

BANKING AND COMMERCIAL USAGES.

Prepared and Revised by Messrs. VECKI & WYTHE
Attorneys and Counselors at Law, San Francisco.
(See Card in Attorneys' List.)

Accounts. An account is assignable, and the assignee may maintain an action thereon, although the account is assigned merely for collection. An action to recover a balance due upon a mutual current and open account or upon an open book account is barred within four years. The cause of action on a mutual account is deemed to have accrued from the date of the last item. In the case of an open book account, each item becomes outlawed four years after its date. (See Actions and Limitations.)

Acknowledgments. Before an instrument can be recorded, its execution must be acknowledged by the person executing it, or if executed by a corporation, by its president or secretary, or other person executing the same on behalf of the corporation, or proved by a subscribing witness, or by judgment in an action brought for the purpose. The proof or acknowledgment of an instrument may be made at any place within the State before a justice or clerk of the supreme court, and within the city, county, or township for which the officer was appointed or elected, before either: (1) A clerk of a court of record; (2) a county recorder; (3) a court commissioner; (4) a notary public; (5) a justice of the peace. The acknowledgment of an instrument 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, or other person who executed it on its behalf. Officers taking and certifying acknowledgments or proof of instruments for record, must authenticate their certificates by affixing thereto their signatures, 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. Acknowledgments taken out of this State to be used within this State may be taken before a notary public, a commissioner appointed by the governor of this State, a judge, or clerk of a court of record, or in foreign countries a minister, consul, vice-consul, or consular agent of the United States, or a judge of a court of record or a notary public.

Actions. All civil actions are commenced by filing a complaint, upon which plaintiff may, at any time within one year thereafter, have a summons issued. There is but one form of action and the only pleadings allowed on the part of the plaintiff are: 1. The complaint. 2. The demurrer to the answer. 3. The demurrer to the cross-complaint. 4. The answer to the cross-complaint, and on the part of the defendant: 1. The demurrer to the complaint. 2. The answer. 3. The cross-complaint. 4. The demurrer to the answer to the cross-complaint.

Administration of Estates. Upon the admission of a will to probate, letters testamentary are granted by the superior court to the executor named in the will, unless he be dead or incapable or unwilling to act, in which case letters testamentary are issued to an administrator with the will annexed, appointed by said court. In case of intestacy, letters of administration are issued to the bona fide resident of the state entitled thereto, in the following order: 1. Relatives of whole blood entitled to adminster in preference to those of half blood. Surviving husband or wife, or some competent person named by either. 2. Children. 3. Father or mother. 4. Brothers. 5. Sisters. 6. Grandchildren. 7. Next of kin entitled to share in the distribution of the estate. 8. Public administrator. 9. Creditors. 10. Any person legally competent. Where the person entitled to administration is a minor or incompetent, letters must be granted to his or her guardian, or to any other person entitled to letters of administration in the discretion of the court. Bonds for faithful performance of duty are required of an administrator and of an executor unless waived by the will. Notice must be given by the administrator or executor by publication to all the creditors to come in and prove their claims within ten months after its first publication, when the estate exceeds in value the sum of ten thousand dollars, and four months when it does not. 11. Claims arising on contract whether due or not due or contingent, and funeral expenses must be presented within time prescribed by notice to creditors, otherwise they are forever barred, unless it appears by affidavit of the creditors that such creditor was outside of the State and consequently did not receive notice. Unless claim is approved within the time provided for in the notice it is barred, unless the claimant can prove to the satisfaction of the court that he had no notice by reason of being out of the State, in which case the claim may be presented at any time before a decree of distribution is entered. When 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. 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 expenses of the last sickness. 3. Debts having preference by the laws of the United States. 4. Judgment rendered against the decedent in his lifetime, and mortgages and other liens in the order of their date; and 5, all other demands against the estate.

Affidavits. An affidavit to be used before any court, judge, or officer of this State may be taken before any officer authorized to administer oaths. In this State every court, every judge or clerk of any court, every justice and every notary public, and every officer or person authorized to take testimony in any action or proceeding, or decide upon evidence, has power to administer oaths and affirmations. An affidavit taken in another State of the United States 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 another 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, consul, vice-consul, or consular agent of the United States, or before any judge of a court of record having a seal, in such foreign country.

Aliens. 1. All aliens eligible to citizenship may take, hold and dispose of property, real and personal, within this State.

2. All aliens not eligible to citizenship may acquire and possess land in accordance with the terms of any existing treaty with any foreign country of which such alien is a citizen, and not otherwise, and in addition may lease land for agricultural purposes for three years.

3. Any company, association or corporation composed in the main of aliens may acquire and possess land in accordance with the terms of any existing treaty with any foreign country of which they are citizens, and not otherwise, and in addition may lease land for agricultural purposes for three years.

4. When it appears in any probate proceedings wherein any alien is an heir that he could take real property except for the provision of this act, the probate court shall order the sale of such real property and distribute the proceeds to such alien.

5. For any violation of this act the attorney-general shall institute forfeiture proceedings and upon final judgment the lands shall escheat to the State.

6. When it appears that any alien or aliens are holding any leasehold interests in violation of the above provisions the attorney-general shall likewise institute forfeiture proceedings, and such leasehold interest or its monetary value together with the costs of such forfeiture proceedings shall escheat to the State.

No non-resident alien can take by succession unless he appear and claim within 5 years after death of decedent.

Arbitration. The submission to arbitration must be in writing, and it may stipulate that it be entered as an order of the superior court, for which purpose it must be filed by the clerk. If the submission is not made an order of the court, it may be revoked at any time before the award. All the arbitrators must act, but a majority governs. Their award must be in writing, signed by a majority of them, and delivered to the parties, and when the submission is made by an order of the court, must be filed by the clerk who enters the same, after the expiration of five days, in the judgment book, and thereupon it has the effect of a judgment. Title to real property cannot be arbitrated. Upon application a State Board of Arbitration has jurisdiction over disputes between employer and employee.

Arrest. In an action for the recovery of money upon a contract, express or implied, the defendant may be arrested if about to depart from the State with intent to defraud his creditors, upon order of court based upon affidavit therefor, also in an action 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 actions to recover the possession of personal property where it has been concealed or removed or disposed of to

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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 the defendant has removed or disposed of his property or is about to do so with intent to defraud creditors. Bail given upon arrest is liable upon judgments secured.

Assignments for the Benefit of Creditors. Assignments for the benefit of creditors must be written and acknowledged by the assignor or his agent authorized thereto in writing and recorded, and must be made to the sheriff of the county where the insolvent resides, or, if a non-resident, where he has property. Assignments for the benefit of creditors are void against any creditor not assenting thereto in a number of instances; for example, where they give one debt a preference over another, and where they tend to coerce any creditor to release or compromise his demand. Assignments must contain names of creditors and the amounts.

Attachments may be issued at the time of or any time after issuing the summons where amount sued for exceeds $10.00. All property not exempt from execution may be attached. An attachment lien upon real property continues for three years and may be extended for two years more. The clerk of the court must issue the writ of attachment upon receiving an affidavit by or on behalf of the plaintiff showing, (1) That the defendant is indebted to the plaintiff, specifying the amount of such indebtedness over and above all legal set-offs or counter-claims, upon a contract, express or implied, for the direct payment of money, and that such contract was made or is payable in this state, and that the payment of the same has not been secured by any mortgage or lien upon real or personal property, or any pledge of personal property, or, if originally so secured, that such security has, without any act of plaintiff, or the person to whom the security was given, become valueless; or (2) That the defendant is a non-resident of the State, and is indebted to plaintiff, specifying the amount of such indebtedness over and above all legal set-offs or counter-claims, upon a contract expressed or implied; or (3) That plaintiff's cause of action against defendant is one to recover a sum of money as damages (specifying the amount thereof) arising from an injury to property in this State in consequence of the negligence, fraud or other wrongful act of the defendant, and that the defendant is a non-resident of the State; and (4) That the attachment is not sought, nor is the action prosecuted, to hinder, delay, or defraud any creditor of defendant. Before issuing the writ, the clerk must require a written undertaking on the part of the plaintiff, in a sum not less than $200, or in Justices Court of from $50.00 to $300, and not exceeding the amount claimed by plaintiff, with sufficient sureties, to the effect that, if the defendant recovers judgment, the plaintiff will pay all costs that may be awarded to the defendant, and all damages that he may sustain by reason of the attachment, not exceeding the sum specified in the undertaking, and that if the attachment is discharged on the ground that the plaintiff was not entitled thereto, the facts required in the above not being existent, the plaintiff will pay all damages which the defendant may have sustained by reason of the attachment, not exceeding the sum specified in the undertaking.

Banks, Savings. A savings bank may purchase or hold (1) Real Estate, furniture, fixtures, etc., in which its business may be conducted. (2) Property mortgaged or held in trust on account of any money lent in the course of business. It shall not purchase personal property except (1) bonds or interest bearing obligations of the United States (2) bonds of the State. (3) Bonds of any state which has not defaulted in payment of either principal or interest within five years. (4) Bonds of any county, city or town or school, road, sewer, drainage, reclamation, protective or sanitary district, organized under the laws of the state, to limited amount. (5) Bonds of any county, city or town of any state of a population of more than 200,000 and an entire bonded indebtedness less than fifteen per cent of the taxable property, where interest or principal has not been defaulted within five years. (6) Bonds of railroads organized inder the state and operating exclusively therein or of railroads operating at least 500 miles of standard gauge tract, or of any railroad corporation payment of which has been guaranteed, by the preceding clauses of railroads; provided, that in all cases the net earnings are as required by statute. (7) Bonds of Public Utility corporations, incorporated under the laws of the State of California, provided the properties and earnings, etc., are as required by statute. (8) Notes or bonds secured by first lien on real estate to sixty per cent of its market value. (9) Collateral trust bonds or notes secured by deposit of authorized bonds fifteen per cent in excess of such collateral bonds or the deposit of such bonds and other securities twenty per cent in excess of such collateral bonds, provided the market value of the authorized bonds deposited equal such collateral bonds. (10) Bonds accepted by savings banks under the laws of New York or Massachusetts. (11) Certificates issued by corporations with a paid up capital stock of not less than $100,000, secured upon real estate and guaranteed in the manner required by the Bank Act. No savings bank must loan money except on adequate security on real or personal property and such loan must not be for longer than ten years. It must have a paid up capital stock graduated from $25,000 when located in any place of less than 5,000 population. to $300,000 when the population is in excess of 200,000. Savings banks organized without capital stock must have a reserve fund of $1,000,000. The capital stock and surplus of savings banks, must equal ten per cent to and including $2,000,000 deposit liabilities, must exceed seven and one half per cent of deposit liabilities from $2,000,000 to $5,000,000, five per cent from $5,000,000 to $15,000,000, two and one half per cent from $15,000,000 to $40,000,000, and one per cent of deposit liabilities in excess of $40,000,000. A surviving husband or wife or next of kin of any deceased person may, without procuring letters of administration, withdraw any sum deceased may have had on deposit in any savings bank if the sum does not exceed $500.00.

Banks. The business of banking may be carried on only by corporations organized for that purpose under the Bank Act. The capital stock and surplus of commercial banks must exceed ten per cent of deposit liabilities. Such corporations are classified as: Commercial, Savings or Trust companies, and, together with building and loan associations, are conducted under the supervision and inspection of a State Superintendent of Banks, to whom such banks must submit at stated intervals to examination. No person unless organized as a bank under the laws of this state may hold himself out as engaged in the banking business, or use the word bank, savings or trust company in connection with his business. Every bank may conduct a commercial and savings department, provided its capital stock, if situated in a locality of less than 5,000 population amounts to $25,000, or both or either departments in conjunction with a trust department if the same amounts to $125,000. If the population of a locality is from 5,000 to 25,000 a capital of $50,000 is required for a savings and commercial department and $150,000 for both or either in conjunction with a trust department. If the population is from 25,000 to 100,000 a capital of $200,000 and $400,000 respectively, is required; if the population is over 200,000 a capital of $300,000 and $500,000, respectively, is required. Every bank must designate the character of its business. A bank organized under the laws of another state must comply with all the requirements of the State Bank Act, set apart to its business conducted here the surplus paid up stock required of California corporations, and constitute the State Superintendent of Banks its agent for service of process. A banker has a general lien dependent upon possession of all property in his hands belonging to a customer for the balance due to him from such customer in the course of business. The same capital stock is required of commercial banks as of savings banks. (See savings banks.) With some exceptions no commercial bank can lend more than ten per cent of its capital stock on unsecured loans or twenty-five per cent upon security worth at least fifteen per cent more than the loan so secured, but a commercial bank may buy or discount bills of lading or exchange drawn against actual value or buy and discount commercial paper, not to exceed twenty-five per cent of its capital and surplus.

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 to a person ascertainable at the time the instrument is made, and without any condition not certain of fulfillment. 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. Bills of exchange, promissory notes, bank notes, checks, bonds, and certificates of deposit, also warehouse receipts when so made 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 date. Days of grace are not allowed. Acceptance 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. 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.

Chattel Mortgages may be made on any personal property, including growing crops and fruit, except personal property not capable of manual delivery, articles of wearing apparel and personal adornment, and the stock in trade of a merchant. In the absence of delivery and continued change of possession, the chattel mortgage will be void as to creditors of the mortgagor unless acknowledged or proved, certified, and recorded, as required in cases of grants of real property and accompanied by affidavits of all the parties that it is made in good faith, and without any design to hinder, delay or defraud creditors. Such mortgages must be recorded in county it is situated in and if removed to another county a copy of mortgage must be recorded in county within 30 days or mortgagor must take possession.

Collaterals. Are governed by the law relating to pledges of personal property. A 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. 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 pledgeholder, may purchase the property pledged when the same is sold at public auction. 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.

Contracts. Certain contracts are invalid unless the same or some note or memorandum thereof is in writing. (See Statute of Frauds.) A contract for personal services cannot be enforced for over two years.

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 in writing. Leases of agricultural land for a longer period than 10 years and of city property for a longer period than 50 years are void. A fee simple title is presumed to be intended to pass by a grant of real property, unless it appears from the face of the grant that a lesser estate was intended. A grant of real property may be made in the following form: "I, A. B., grant to C. D. all that real property situated in (insert name of county) county, State of California, bounded (or described) as follows: (Here insert description, or if the land sought to be conveyed has a well-established descriptive name, it may be described by such name as for instance: 'The Norris Ranch.') Witness my hand this (insert) day of (insert month), 19—. A. B." The use of the word "grant" implies the following covenants: 1. That previous to the time of the conveyance the grantor had not conveyed the same estate, or any right, title, or interest therein to any person other than the grantee. 2. That such estate is at the time of the execution of the conveyance free from incumbrances, done, made, or suffered by the grantor. Subsequently acquired title passes by operation of law to the grantee, or his successors. Instruments entitled to be recorded must be recorded by the county recorder of the county in which the real property affected thereby is situated. 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.

Corporations. Private corporations may be formed by the voluntary association of any three or more persons, in the manner prescribed by statute not to exceed 50 years. 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. The number of directors of corporations for profit, except those mentioned as excepted, may be increased or diminished, by a majority of the stockholders of the corporation to any number, not less than three, who must be members of the corporation. A copy of the articles of incorporation, certified by the secretary of State, must be filed with the county clerk of every county where the corporation purchases, acquires or locates property, within sixty days after such purchase or location. 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, a copy thereof, certified by the county clerk, with the secretary of State, the secretary of

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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. (See Foreign Corporations.) All stocks is assessable for the purpose of paying debts and meeting expenses but no single assessment must exceed 10%. The franchise of all corporations as distinct from its tangible property is subject to taxation.

Each stockholder of a corporation is individually and personally liable for such proportion of its debt and liabilities incurred while he was a stockholder as the amount of stock or shares owned by him bears to the whole of the subscribed capital stock or shares of the corporation, and for a like proportion only of each debt or claim against the corporation, but such liability is barred within 3 years after the obligation is incurred. Any creditor of the corporation may institute joint ot several actions against any of its stockholders for the proportion of this 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 liabilities for such debt; and if an action has been brought against him for 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 term "stockholder" extends 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. Stock held as collateral security, if fact of pledge appears, or by a trustee, or in any other representative capacity, does not make the holder thereof a stockholder, 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 liabilities. 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.

Courts. Terms and Jurisdiction. Justices' courts have civil jurisdiction: 1. In actions arising on contracts 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 the defendant involving the title to or possession of the same, if the damages claimed do not amount to $300. 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 annullment 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. The superior courts have appellate jurisdiction in cases arising in justices' and other inferior courts in their respective counties provided the appeal be taken within thirty days of the judgment.

District Courts of Appeal. The State is divided into three appellate districts, each of which has a court of appeals with three justices. These courts have appellate and original jurisdiction. The general line of demarcation between the supreme court and these courts is the amount of money or the value of the property involved. The district courts of appeal have appellate jurisdiction on appeal from the superior courts in all cases at law in which the demand exclusive of interest or the value of the property in controversy amounts to $300 and does not amount to $2,000; also in all cases of forcible entry and detainer (except such as arise in the justices' courts); in proceedings in insolvency, and in actions to prevent or abate a nuisance; in proceedings in mandamus, certiorari and prohibition, usurpation of office, contesting elections and eminent domain, and in such other special proceedings as may be provided by law (excepting in cases in which appellate jurisdiction is given to the supreme court); also on questions of law alone in all cases prosecuted by indictment or information to a court of record, excepting criminal cases where judgment of death has been rendered. Said courts also have appellate jurisdiction in all cases, matters and proceedings pending before the supreme court which shall be ordered by the supreme court to be transferred to a district court of appeal for hearing and decision.

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 for the complete exercise of its appellate jurisdiction. The supreme court has appellate jurisdiction in all cases in equity, except such as arise in the justices' courts; also in all cases at law which involve the title or possession of real estate or the legality of any tax, impost, assessment, toll or municipal fine, or in which the demand exclusive of interest or the value of the property in controversy amounts to $2,000; also in all such probate matters as may be provided by law; also on questions of law alone in all criminal cases where the judgment of death has been rendered; the said court also has appellate jurisdiction in all cases, matters and proceedings pending before a district court of appeal which shall be ordered by the supreme court to be transferred to itself for hearing and decision.

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 clerk of the superior court of the 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 notary public, 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 commission must authorize the commissioner to administer an oath to the witness. The testimony of a witness out of the 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. The words of the witness must be written down, in the presence of the witness, by the officer taking the deposition or by some indifferent person appointed by him. It may be taken down in short hand in which case it must be transcribed to long hand by the person who took it down. When completed, it must be carefully read to or by the witness and corrected by him in any particular, if desired, by writing or causing his corrections to be written at the bottom of the deposition, and must then be subscribed by the witness. Corrections must be initialed by officer before whom deposition is taken. If the parties agree in writing to any other mode, the mode so agreed upon must be followed.

Depositions in this State. The testimony of the witness in this State may be taken by deposition in an action at any time after the service of summons or the appearance of 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 hereof, 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 subpœna 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 the action or proceeding, he must issue a subpœna 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.

Descent and Distribution of Property. Property, both real and personal, of an intestate passes to his heirs. A surviving wife succeeds to 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 interest 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 living, 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 or 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 leaves 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. Illegitimate children inherit from mother, also from father if recognized in writing but can only inherit directly and not by representation. 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.

Executions. May issue any time within 5 years from entry of judgment and after lapse of 5 years the judgment may be enforced or carried into execution by leave of court upon motion, or by judgment for that purpose, founded upon supplemental proceedings. No right of stay exists except by order of the court in its discretion. Execution may issue against the property of a judgment debtor after his death, only if the judgment be for recovery of real or personal property, or the enforcement of liens thereon. Real property may be redeemed within one year, personal property not at all.

Exemptions. The following property is exempt from execution: 1 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 bedstead, hanging pictures, oil paintings and drawings drawn or painted by any member of the family, and family portraits, and their necessary frames, provisions and fuel 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, one piano, one shotgun, and one rifle. 3. The farming utensils or implements of husbandry not exceeding in value the sum of $1,000; also two oxen or two horses, or two mules, and their harness; one cart or buggy and two wagons, and food for such oxen, horses, or mules for one month; also all seed, grain, or vegetables, actually

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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 mechanic or artisan necessary to carry on his trade; the notarial seal, records, and office furniture of a notary public; the instruments and chest 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, including one safe and one typewriter, 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; also the typewriters or other mechanical contrivances employed for writing in type actually used by the owner thereof for making his living; also one bicycle when the same is used by its owner for the purpose of carrying on his regular business, or when the same is used for the purpose of transporting the owner to and from his place of business. 5. The cabin or dwelling of a minor 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 same 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 $75. 9. Seamen's and seagoing fishermen's wages and earnings not exceeding $300. 10. 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 necessaries of life, or have been incurred at a time when the debtor had no family residing in this State, supported in whole or on part by his labor, the one-half of such earnings above mentioned are nevertheless subject to execution, garnishment, or attachment to satisfy debts so incurred. 11. The shares held by a member of a homestead association duly 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. 12. All the nautical instruments and wearing apparel of any master, officer, or seaman of any steamer or other vessel. 13. All fire engines, hook and ladders, with 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. 14. All arms, uniforms and accoutrements required by law to be kept by any person, and also one gun to be selected by the debtor. 15. All court houses, jails, and town, county, and State buildings; all public buildings, grounds, places, etc. 16. All material purchased for use in the construction, alteration, etc., of any building, mining claim, etc., not exceeding the value of $1,000. 17. All machinery, tools, and implements necessary in and for boring, sinking, putting down, and constructing surface or artesian wells; also the engines necessary for operating such machinery, implements, tools, etc.; also all trucks necessary for the transportation of such machinery, tools, implements, engines, etc., to the value of $1,000. 18. 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. 19. Shares of stock in any building and loan association to the value of $1,000. 20. Pensions from the United States Government. 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 or other lien thereon. (For Homestead Exemptions, see Homestead.)

Foreign Corporations. Every foreign corporation doing or about to do business in this State must file a certified copy of its articles of incorporation, or of a legislative act creating it, with the Secretary of State, and a certified copy thereof duly certified by the Secretary of this State must be filed with the County Clerk of the County where its principal place of business is located, and also where it owns property. Every foreign, corporation must file in the office of the Secretary of State with such certified copy, a designation of some person residing within the State upon whom process, issued by authority of or under any law of this State, may be served; and any foreign corporation failing to comply with this provision can neither maintain nor defend any action in the courts of this State, or acquire or convey any legal title to real property and is subject in addition to a fine of $500. (See Corporations.)

Fraud. (For Fraudulent Debtors, see Arrest.) Any contract obtained through fraud is voidable. Consent is deemed to have been obtained through fraud only when it would not have been given had such cause not existed. Actual fraud consists in the suggestion as a fact of that which is not true, the positive assertion of that which is not true in a manner not warranted by the information of the person making it though he believes it to be true, the suppression of that which is true by one having knowledge of it, and promises made without any intention of performing, or any other act fitted to deceive. Constructive fraud consists of any breach of duty, which without an actual fraudulent intent, gains an advantage of the person in fault by misleading another to his prejudice. Actual fraud is always a question of fact.

Garnishment. Upon receiving instruction 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.

Homestead. The homestead consists in the interest of the claimant, divided or undivided, in the dwelling house in which the claimant resides, and in the land on which the same is situated, selected, if the claimant be married, from 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 separate property. The homestead can not be selected from the separate property of the wife without her consent, shown by her making or joining 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 mechanics' contractors', sub-contractors', artisans', architects', builders', laborers' of every class, materialmen's or vendors' 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. In cases not enumerated above, in which, after a judgment has been docketed against the homestead claimant, and an execution for its enforcement levied on the homestead, it may be shown by an appraisement applied for to, and ordered by, the court, after proper proceedings, that the homestead exceeds in value the amount of homestead exemption. Then steps may be taken, if it can be done without material injury to the land, to divide the property and reach the excess. The homestead of a married person can not be conveyed or encumbered unless the instrument by which it is conveyed or encumbered 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 upon death of either spouse, if homestead is selected from community property or from separate property of spouse joining therein, title thereto vests in survivor otherwise to the heirs or devisees of the person whose property was selected.

Husband and Wife. The husband is the head of the family. He may choose any reasonable place or mode of living, and the wife must conform thereto. In other respects their interests are separate. Neither husband nor wife has any interest in the separate property of the other, and either may enter into any engagement with the other, or with any other person, respecting property, which either might if unmarried. All property of either, owned by him or her before marriage, and that acquired afterward by gift, bequest, devise or descent, is the separate property of such person. All other property acquired after marriage by either husband or wife or both, 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. The husband has the management and control of the community property, with absolute power of disposal other than testamentary, provided that he cannot make a gift of the same or convey the same without valuable consideration, unless the wife consents in writing. The community property is not liable for the contracts of the wife made after marriage, unless secured by a pledge or mortgage thereof executed by the husband. The husband is not liable for damages or torts committed by wife except in a case where he would be jointly liable with her if the marriage did not exist. The separate property of the husband is not liable for the debts of the wife contracted before marriage, and the separate property of the wife is not liable for the debts of her husband, but is liable for her own debts contracted before or after marriage. A husband and wife may hold property as joint tenants, tenants by entreaties, tenants in common, or as community property upon death of wife entire community property goes to husband, whereas on death of husband wife gets one half of community.

Interest. The legal rate of interest is 7 per cent and is due upon judgments after rendition and upon other obligations unless there is an express contract in writing fixing a different rate. The parties may agree on a higher rate of interest and on the compounding of same, but personal property brokers may charge not to exceed 2 (two) per cent per month.

Judgments. (See Actions.) Upon filing the judgment roll, which is a record of the proceedings in the case, it must be docketed by the clerk, whereupon it becomes a lien upon any real property of a judgment debtor not exempt from execution in the county, which the said judgment debtor owns at that time, or which he may thereafter acquire. This lien continues for five years, unless the enforcement of the judgment be stayed on appeal. A judgment is barred by the act of limitation within five years, unless revived by leave of court upon motion, or by an action upon the judgment. Judgment must first be satisfied out of property of the judgment debtor which has been attached and in the custody of the sheriff.

Liens. Mechanics, material-men, contractors, sub-contractors, artisans, architects, machinists, builders, miners, teamsters, draymen and all persons and laborers of every class performing labor upon or furnishing material to be used in or furnishing appliances, teams and power contributing to the construction, alteration, or repair of any building, wharf, bridge, ditch, flume, aqueduct, well, tunnel, fence, machinery, railroad, wagon road, or other structure, have liens upon the property upon which they have worked or furnished material, and any person performing labor in a mining claim has a lien upon the same, and the works owned and used by the owners for reducing the ores from such mining claim, for the work or labor done. The common carrier has a lien upon the luggage of a passenger for the payment of his fare. One who sells real property has a vendor's lien thereon. Improvers of personal property, depositaries for hire, veterinary surgeons, livery stable keepers and persons pasturing horses or stock, have a special lien, dependent upon possession. Factors, banks, and laundry proprietors have a general lien, dependent on possession, on any personal property in their hands. Seamen have general liens independent of possession. Owners of animals used for propagating purposes have a lien for the agreed price upon the offspring. Loggers rendering services upon logs, bolts and other timber have a lien thereon for the amount due for their personal services.

Every person performing work or labor in, with, about, or upon any threshing machine or engine, horse-power, wagon, or other appliance thereof, while engaged in threshing, has a lien thereon to the extent of the value of his services, for ten days after ceasing work or labor, provided, within that time, an action is brought to recover the amount of the claim, persons repairing or altering any personal property have a lien for the reasonable value of such service.

Limitations. If real estate is held adversely for five years, such adverse possession ripens into title if claimant pays taxes for 5 years, except against infants and persons under disability. The periods prescribed for the commencement of actions other than for the recovery of real property, are as follows: Within five years: (1) An action upon a judgment or decree of any court of the United States, or of any State within the United States. (2) An action for mesne profits of real property. Within four years: (1) An action upon any contract, obligation or liability founded upon an instrument in writing, executed in this State. (2) An action to recover a balance due upon a mutual open and current account or upon an open book account. Within three years: (1) An action upon a liability created by statute, other than a penalty or forfeiture. (2) An action for trespass upon real property. (3) An action for taking, detaining or injuring any goods or chattels, including actions for the specific recovery of personal property. (4) An action for relief on the ground of fraud or mistake, the cause of action in such case not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting fraud or mistake; Within two years: (1) An action upon a contract, obligation or liability

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not founded upon an instrument of writing, or founded upon an instrument of writing executed out of the State. (2) An action on a debt, liability or obligation evidenced by an abstract, guarantee or certificate of title; and such action shall not be deemed to have accrued until the discovery of the loss or damage. (3) An action against a sheriff, coroner, or constable, upon a liability incurred by the doing of an act in his official capacity, and in virtue of his office, or by the omission of an official duty, including the non-payment of money collected upon an execution; but this subdivision does not apply to an action for an escape. Within one year: (1) An action upon a statute for a penalty or forfeiture, when the action is given to an individual or to an individual and the State, except when the statute imposing it prescribes a different limitation. (2) An action upon a statute, or upon an undertaking in a criminal action, for a forfeiture or penalty to the people of this State. (3) An action for libel, slander, assault, battery, false imprisonment, or seduction, or for injury to or for the death of one caused by the wrongful act or neglect of another, or by a depositor against a bank for the payment of a forged or raised check. (4) An action against a sheriff, or other officer, for the escape of a prisoner arrested or imprisoned on civil process. (5) An action against a municipal corporation for damages or injuries to property caused by a mob or riot. Within six months: (1) An action to recover property seized by tax collector. (2) To recover corporation stock sold for delinquent assessment. To actions brought to recover money or other property deposited with any bank, banker, trust company, or savings and loan society, there is no limitation. If when the cause of action accrues against a person, he is out of the State, the action may be commenced within the term herein limited, after his return to the State, and if, after the cause of action accrues, he departs from the State, the time of his absence is not part of the time limited for the commencement of the action. And if the person entitled to bring the action be, at the time the action accrued, either a minor, insane, imprisoned for a term less than life, or a married woman and her husband is a necessary party with her in commencing such action, the time of such disability is not a part of the time limited for the commencement of the action. No acknowledgment or promise is sufficient to take a case out of the operation of the statute of limitations, unless the same is in writing, signed by the party to be charged. Part payment will not take the case out of the statute of limitations. Where a cause of action has arisen in another State, and would be barred by the statute of limitations of that State, an action cannot be maintained here. There is no limitation upon actions to recover money or property with banks or trust companies. (See Accounts.)

Married Women. When a married woman is a party to an action her husband must be joined except: (1) When the action concerns her separate property including torts for personal injuries, homestead property and actions between herself and husband or when she is living separate and apart from her husband by reason of his desertion or by an agreement in writing. 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. 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. The wife may make a will of her separate property. The earnings of the wife are not liable for the debts of her husband.

Mechanics' Liens. (See Liens.)

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 the 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. 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 mortgagee, unless expressly stipulated the mortgage is not a personal obligation on part of mortgagor.

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

Pledge. (See Collaterals.)

Powers of Attorney. An attorney in fact may be appointed for any purpose for which an agency can lawfully be created. Powers of attorney can only be conferred by an instrument in writing subscribed by the principal which must particularly specify the powers conferred. If the instrument contains a power to convey or execute instruments affecting real property, it must be duly acknowledged and must be recorded in the county within which the real property to be conveyed or affected is situate. No such instrument which has been so recorded is revoked by any act of the party by whom it was executed, unless the instrument containing such revocation is also acknowledged or proved, certified, and recorded in the same office in which the instrument containing the power was recorded. When an attorney in fact executes an instrument transferring an estate in real property, he must subscribe the name of his principal to it, and his own name as attorney in fact.

Probate Law. (See Administration of Estates, Claims against Estates of deceased persons, Descent and Distribution.) The superior court has jurisdiction of proceedings in probate, and such proceedings must be instituted (1) In the county in which the decedent was a resident; (2) in the county in which he may have died, leaving estate therein, he not being a resident of the State; (3) in the county in which any part of the estate may be, if the decedent died out of the State and was not a resident. (4) In any county in which any part of the estate may be, or the decedent not being a resident of the State nor leaving an estate in the county of death. (5) In other cases where application is first made, any person interested may petition for probate of a will or may contest such probate within one year. An inventory and appraisement is required of the executor or administrator within three months. Upon the return of the inventory the court may set apart for use of the surviving husband or wife, or of the minor children, all the property exempt from execution including any homestead selected, providing the same was selected from the common property or from the separate property of the person selecting or joining in the selection of the same. If none has been selected, the court must select, designate and set apart and cause to be recorded a homestead for the use of the surviving husband or wife, or of the minor children, or if there be no surviving husband or wife, then for the use of the minor children out of the common property, or if there be no common property, then out of the real estate belonging to the decedent. Property so set apart is not subject to further administration. If upon the return of the inventory it appears that the value of the whole estate does not exceed $1,500, the court may set apart the whole of the estate for the use and support of the family of the deceased.

Protest. (See Bills and Notes.)

Replevin. There is no action of replevin in this State, but the action of claim and delivery substantially takes its place. The plaintiff in an action to recover the possession of personal property may at the time of issuing the summons, or at any time before answer, claim the delivery of such property. An affidavit must be made by the plaintiff or by some one in his behalf showing that the plaintiff is the owner of the property, or entitled to its possession, that the property is wrongfully detained by the defendant, the alleged cause of detention thereof, and that it has not been taken for a tax, assessment or fine, or seized under an execution or attachment, or if so seized that it is exempt; also the actual value of the property. Plaintiff must also give a bond in double the value of the property. The defendant may give to the sheriff a written undertaking in double the value of the property, and retain the same, but in case he fails so to do the property is delivered to the plaintiff. Third parties may upon affidavit of ownership, claim such property and secure its release under bonds. The judgment in such action is in the alternative for a return of the property or for its value in case a delivery can not be had.

Statute of Frauds. A will must be in writing, except a nuncupative will. (See Wills.) An agreement not to be performed within a year from making it must be in writing; also a special promise to answer for the debt, defraud, 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 estate in land will pass other than leases not to exceed one year, unless in writing. An agreement authorizing or employing an agent or broker to purchase or sell real estate for compensation or for a commission. An agreement by its terms not to be performed in the lifetime of the promise or to make, devise or bequeath by will. No evidence is admissable to charge a person upon representations as to the credit of another, unless the representations be in writing. However where promisor has received property to apply pursuant to promise or a discharge of an obligation in consideration of the promise, or where a creditor parts with value or where the new promise is substituted for the old debt, or where levy or execution is released or there is benefit moving to promise from any party or where a factor undertakes for a commission to guarantee a sale, contracts to answer for the default of another need not be in writing. Transfer of personal property capable of manual delivery, except wine in cellars and tanks, when not accompanied by delivery and change of possession are deemed fraudulent as to third parties unless notice of intention of sale is recorded 5 days before transfer is made in accordance with law.

Supplementary Proceedings. When an execution is returned unsatisfied, the judgment creditor can 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. On the last Monday of November of each year taxes become delinquent, except the last installment of the real property taxes, and thereafter 15 per cent is added for delinquency; provided, that if they be not paid before the last Monday in April next succeeding, 5 per cent is added for delinquency. On the last Monday in April, of each year, all the unpaid portion of the remaining one-half of the taxes on all real property is delinquent, and thereafter 5 per cent is added for delinquency; and provided further, that the entire tax on any real property may be paid at the time the first installment as above provided is due and payable; and provided further, that the taxes on all personal property, unsecured by real property, shall be due and payable immediately after the assessment of said personal property is made. Public Utility corporations are taxed for the support of the State other property is taxed for county and city purposes.

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 holographic 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 and in the presence of each other. An holographic 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, except that a will made in a State or country in which the testator is domiciled at the time of his death, and valid as a will under the laws of such State or country is valid in this State as to personal property. Wills proven out of state may be recorded in county where testator has left over estate.

Bequests for charity are void unless made more than 30 days before death and must in no case exceed more than one third of the estate unless there are no legal heirs. Wills are revoked by marriage unless provision for the same or an intention not to provide clearly appears.

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SYNOPSIS OF

THE LAWS OF COLORADO

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by Messrs. GARWOOD AND GARWOOD, Attorneys at Law, Denver. (See Card in Attorneys' List.)

Acknowledgments. Of deeds and instruments concerning real estate, may be taken as follows:—

1. Within this State, before any judge, clerk, or the deputy clerk of any court of record, clerk, and recorder of any county, or his deputy, or notary public, or before any justice of the peace within his county.

2. Out of this State and within the United States before the secretary of any such State or Territory, the clerk of any court of record, any notary public, or any commissioner of deeds for any such foreign State or Territory appointed under the laws of this State; 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, as to the official capacity, true signature and authority of the person certifying such acknowledgment.

3. Out of the United States, before any judge, clerk, or deputy clerk, of any court of record of any foreign kingdom, empire, republic state, principality, province, colony, island possession or bailiwick, before the chief magistrate or other chief executive officer of any province, colony, island possession or bailiwick, before the mayor or chief executive officer of any city, town, borough, county or municipal corporation, having a seal, or before any ambassador, minister, consul, consular agent, charge d'affaires, commercial agent, or any vice consul, etc., or any diplomatic, consular or commercial agent or representative, or deputy of any thereof, of the United States or any other government or country appointed to reside in the foreign country or place where the acknowledgment is made, each and all certifying same under his official seal.

4. Out of the State, and within any colony, island possession or bailiwick of the United States, before any such officer as above enumerated in relation to acknowledgments in foreign countries (except ambassadors, etc.) or before any notary public, having a seal.

Actions. The distinction between the forms of actions at law and suits in equity is abolished. All actions must be prosecuted by the party in interest, and are governed by a code of civil procedure.

Administration of Estates. All demands not exhibited in one year are barred, unless such creditor can find other estate of the deceased not inventoried, saving, however, to femmes covert, persons of unsound minds, imprisoned or beyond the seas, the term of one year after their disability has been removed to exhibit their claims. Creditors having liens on the property of the decedent can not foreclose for one year unless permitted by the court and in no event until the claim has been allowed. Administration is granted to surviving husband or widow, or next of kin of an intestate, if they will accept or are not disqualified; if no such relative appears within twenty days after death of intestate, administration may be granted to a creditor; if no creditor appears in ten days after twenty days from death of intestate, or if next of kin files written relinquishment, county judge may select administrator. In counties having a population of more than 50,000 on default of relatives administration is made by public administrator. An abbreviated form of administration is provided for estates not exceeding $500.00. (See Wills; Husband and Wife; Descents and Distributions.)

Agent. (See Partnerships.)

Aliens. No restrictions as to aliens.

Arbitration. Differences may be submitted to arbitration by consent of the parties in the form prescribed by statute, and a judgment may be entered by the clerk of the District Court upon the finding of the arbitrators.

Arrest. Imprisonment for debt, except in cases where one refuses to deliver up his estate for the benefit of his creditors, or in cases of tort or where there is a strong presumption of fraud, is abolished. In civil actions founded upon tort, where the finding is in favor of the plaintiff and the verdict states that defendant was guilty of fraud; malice, or willful deceit, execution may issue against the body of the defendant, but not where the defendant shall have been convicted in a criminal proceeding for the same wrong. Imprisonment shall not exceed one year, and the prisoner is released upon payment of the debt. The writ of ne exeat is granted under proper circumstances. (See Fraudulent Purchasers.)

Assignment. Assignments for the benefit of creditors may be made in accordance with provisions of the Assignment Act. Assignments of wages not covered at the time of the assignment, or of other sums to become due to the assignor, are invalid unless recorded with the recorder of the county where the wages are to be earned, or the sums are to become due, within five days from date thereof. If the assignor is a married man or woman, residing with the wife or husband, he or she must join in the assignment. There are also provisions regulating assignments to wage-brokers and others.

Attachments. In actions on contracts, express or implied, the plaintiff may have the defendant's property attached, upon filing a bond in double the amount sued for, with affidavit of plaintiff, his agent or attorney, setting forth the amount and nature of the debt claimed, and one or more of the following grounds of attachment: 1. That defendant is a non-resident. 2. A foreign corporation. 3. A corporation whose chief office or business is out of this State. 4. Is evading service, or has been absent from State for four months, while debt has been overdue. 5. Is about to remove his property out of State. 6. Has fraudulently conveyed, or (7) fraudulently concealed or removed or disposed of his property, or (8) and (9) is about to do either, or has departed or is about to depart from this State, with the intention of having his effects removed from this State. 10. Has failed or refused to pay the price or value of any article delivered to him to be paid for upon delivery, or (11) of any work or labor performed, or for any service rendered by plaintiff, for defendant, to be paid for upon completion. 12. That the defendant fraudulently contracted the debt, or procured the money or property of the plaintiff. In justice courts, the fact that the debt is for farm products, house rent, household furniture and furnishing, fuel, groceries and provisions, clothing and wearing apparel for the debtor or his family, is additional ground for attachment. Garnishee process will issue in aid of attachment when money or property of the debtor is found in possession of third persons; property of non-residents and absconding debtors can be attached as in most other States.

Banks, State. Any number of persons, not less than three, may engage in the business of banking: the capital stock must not be less than from $10,000 to $50,000 dependent upon population, all of which must be paid in cash before commencing banking business, and certificate thereof filed. Generally no bank may take as security a lien on any part of its capital stock; nor take as security a lien on any part of the capital stock of other banks; nor take as security a lien for any person on more than 25 per cent of the total shares of any other bank; nor may it hold or purchase any portion of its own stock, or of the capital stock of any other corporation, unless such purchase is necessary to prevent loss upon a debt previously contracted in good faith, or in other peculiar circumstances. Stock so purchased must be sold within three years, and sooner if this can be done without impairing the bank's investment. Shareholders 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. Any banker, bank officer or employee who receives money or property after he shall have had knowledge of the insolvency of said bank, shall be deemed guilty of a felony, and, on conviction, punished by imprisonment in the penitentiary for not more than twenty years, or by a fine or not more than $2,000, or both, and in addition shall be individually responsible for the property received. Failure of the bank or banker within thirty days after receipt of such money or property is prima facie evidence of knowledge of the insolvency at the time of such receipt. Loans to any one individual or corporation are limited to 20 per cent of the paid in stock and surplus of the bank. Loans secured on real estate limited to 25 per cent of total interest bearing securities and to a period of three years, but further loans allowed secured by first mortgage on real estate worth double amount of loan limited to 50 per cent of saving deposits and to a period of five years. No bank may engage in trade or commerce; or acquire realty, except such as is necessary for its business or such as is necessarily acquired in the protection or satisfaction of previously existing loans made in good faith. Any realty so acquired must be sold in five years, or sooner if possible. No director may borrow money in excess of 10 per cent of the capital and surplus, without the consent of a majority of the directors other than the borrower. No bank shall loan to any officer or employe thereof. All banks except National Banks, are under the supervision of the State Bank Commissioner who examines each institution at least twice yearly. If he finds capital impaired, he requires the bank to make up deficiency, or takes possession for purposes of liquidation, as circumstances may require. Insolvent banks may be placed in control of the State Bank Commissioner. Usually no receiver can be appointed, nor can a bank make an assignment for creditors. Every bank makes reports of its condition to the commissioner five times yearly. No bank can do business without a certificate of authority from the commissioner. Savings banks are subject to the state banking law under a number of special provisions and restrictions.

Bills of Exchange. (See Commercial Paper.)

Bills of Lading and Promissory Notes. (See Commercial Paper.)

Chattel Mortgages when recorded are good for two years where sum secured does not exceed $2,500; for five years, when sum does not exceed $20,000, and not exceeding ten years where sum secured exceeds $20,000; but if the sum secured be greater than $2,500 mortgagee must annually record statement stating that the mortgage secures a bona fide indebtedness, the portion which has been paid, and the amount still due. Chattel mortgages may be extended after maturity, but not more than thirty days after maturity, by filing an executed instrument of extension of mortgage with the county recorder. As between the parties thereto, all chattel mortgages are good until the indebtedness is paid or is barred by the statue of limitations. Mortgages of stocks of goods which reserve possession and power of sale to mortgagor, are void as against creditors and bona fide purchasers. Disposing of mortgaged property is larceny. Chattel mortgagee, his agent or attorney, now allowed thirty days after maturity of debt in which to take possession of mortgaged chattels, and during said thirty days, or until possession is taken by mortgagee, his agent or attorney, the mortgagor shall have the right to pay said debt and have mortgage discharged as if debt had been paid at maturity. Chattel mortgages, securing the purchase price of any article may, at any time within thirty days after the maturity of the indebtedness, be extended by the mortgagee for a period not exceeding two years, and for like periods thereafter. Chattel mortgages upon household goods used by the family, when made by husband or wife residing with the other, must be made by husband and wife jointly.

Collaterals. Persons holding stocks in corporations as collateral security not personally liable as stockholders for corporate debts. A pledgee of stock may nevertheless represent same at corporate meetings. Transfer of stock either in pledge or otherwise, must be noted on the books of the company within 60 days or the transfer is void for some purposes.

Commercial Paper. To be negotiable, an instrument must contain an unconditional order or promise to pay to order, or to bearer, a certain sum of money on demand, or at a fixed or determinable time or times. The instrument may authorize that upon default of payment of any installment, or of interest, the whole shall become due, and in case of non-payment, the sale of collateral securities, or confession of judgment, or waive benefit of any law intended for the advantage of the obligor. An instrument payable on contingency is not negotiable. The date expressed is prima facie the true date. One in possession of an incomplete instrument has prima facie authority to fill in the blanks, but authority must be strictly pursued. Consideration is prima facie presumed. A pre-existing debt is a valuable consideration. An accommodation party is liable to a holder for value with notice. Two or more payees, unless partners, must all indorse unless one has authority for all. An instrument payable to a person as cashier or other fiscal officer of a bank or corporation is deemed prima facie payable to the bank or corporation, and may be indorsed by the corporation or by the officer. For one to be a holder in due course the instrument must be complete and regular, and taken in good faith for value before overdue, and without notice of any infirmity in the instrument or defect in title. Holder is deemed prima facie holder in due course; but when the title of a person who has negotiated it is shown to be defective, the burden is upon the holder to prove himself a holder in due course. A qualified indorser warrants the genuineness of the instrument; that he has a good title, and that he has no knowledge of any invalidity. An unqualified indorser warrants the instrument valid and subsisting. One indorsing an instrument negotiable by delivery is liable as indorser. Except when excused, presentment for payment, or acceptance, on the day when due is necessary to charge drawer or indorser of an instrument. Presentment must be made on due day, and notice of non-acceptance or non-payment given on next business day to all parties primarily liable unless one has authority for all. Every negotiable instrument is payable at the time fixed without grace. Waiver of protest is deemed a waiver of formal protest, presentment, and notice of dishonor. Protest is required only in case of dishonored bills appearing on their face to be foreign. It is optional in case of other negotiable instruments. Bills drawn and payable within this State are inland; others are foreign. Parties secondarily liable are discharged by extension of time of payment. Payment by a party secondarily liable, unless an accommodation party, does not discharge the instrument, but he may again negotiate it. A qualified acceptance discharges drawer and indorser unless they assent. Assent is presumed

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after notice, unless they dissent. Holder can refuse to receive a qualified acceptance. No presentment for payment is necessary after non-acceptance. A note drawn to maker's order is not complete unless indorsed by him. A check must be presented within a reasonable time or drawer will be discharged to the extent of the loss caused by the delay. The bank is not liable to the holder until it accepts or certifies the check. When not otherwise provided by this act, the law merchant prevails. This act applies only to instruments executed on or after July 20, 1897. All instruments falling due on Sunday or holiday are payable the next business day. In Denver, during June, July and August, Saturday from twelve o'clock noon until twelve midnight is a holiday, but negotiable instruments falling due on Saturday are payable and protestable on Saturday or next business day at the option of the holder. The provisions concerning commercial paper in this state are practically the same as in all states where the Negotiable Instruments act has been adopted.

Conveyances. No joint tenancy in real property unless expressly declared in the deed, except in certain particular cases. Unless so declared grantees shall be deemed tenants in common. Lands not in possession may be conveyed. Not necessary for wife to join in deed except in a conveyance of or a mortgage of a homestead, entered as such of record. Witnesses are unnecessary. Seals are not necessary but a printed or ink seal is advisable. Unacknowledged deeds are deemed notice from the date of filing but they can not be read in evidence unless subsequently acknowledged or proved, unless they are on record for over thirty years. (See Acknowledgments; Husband and Wife.)

Corporations. Three or more persons may form a corporation by filing a certificate in the proper offices, stating the name, objects for which organized, amount of capital stock, number of shares (not less than $1.00 or more than $100.00 per share), term of existence (not to exceed twenty years, except in particular cases), number of directors (not less than three or more than thirteen), and names of those to manage the corporation for the first year, the place where principal office is to be kept, and counties in which its business is to be carried on. If part of the company's business is to be carried on beyond the limits of the State, that fact shall also be stated in the certificate. The certificate shall also state whether or not cumulative voting shall be permitted. Fee for filing Articles of Incorporation of domestic companies is $20, and 20 cents on each thousand dollars in excess of $50,000. Foreign corporations $30, and 30 cents on each thousand dollars in excess of $50,000 represented by capital, property and assets employed and located in Colorado. Directors of a mining or manufacturing corporation cannot encumber the mines or plant of such corporation until the question has been submitted to the stockholders and a majority vote of all the shares of stock has been made in favor of such proposition; and such mortgage or encumbrance without such consent is absolutely void. Cumulative method of balloting for directors is permitted. Stockholders are liable for corporate debts to the amount unpaid upon the stock, except that stockholders in banks, saving banks, trust, deposit, and security associations are individually responsible in double the amount of the par value of their stock. When the stock becomes fully paid up, a certificate to that effect should be filed. The directors are required annually, and within sixty days from January 1st, to file a report stating the amount of the capital stock, the proportion actually paid in, and the amount of existing debts, together with many other particulars. A failure to file such report makes all the directors and officers of the company jointly and severally liable for all the debts of the company contracted during the year next preceding the time when such report should have been filed, and until such report shall be made and filed, and subjects president and secretary to a fine of not less than $1,000. No meetings of the board of directors can be held outside the State unless so provided by the Articles of Incorporation. Corporations may be dissolved by a two-thirds vote of the entire stock. A corporation under the laws of Colorado, may extend its charter by special meeting of the stockholders, called by 10 per cent of the entire capital stock. Corporate life shall be renewed for entire term, not exceeding twenty years. Foreign corporations doing business in this State are not allowed a longer term of corporate existence than domestic corporations of like character, but must file renewal certificates and pay fees therefor in the same manner as domestic corporations, provided that such renewal must not extend the life of the foreign corporation beyond the term fixed by the State where it was organized. Generally no foreign corporation shall have or exercise any corporate powers or hold or acquire any real or personal property, franchises, rights, or privileges, or be permitted to do any business or prosecute or defend any suit in this State, until it has filed in the proper offices copy of its charter and incorporation act, and designated an agent upon whom service of process can be made, and until all prescribed fees including license tax, shall have been paid, and until issuance of a certificate setting forth such full payment.

In addition to all other fees and taxes, every domestic corporation shall pay on or before the first day of May of each year, an annual State corporation license tax to the secretary of the State of Colorado, of two cents upon each one thousand dollars of its capital stock, and every foreign corporation shall pay at the same rate upon that proportion of its capital, property and assets located and employed in Colorado.

Other provisions of the Revenue bill, approved March 22, 1902, and this act regarding annual reports, assessment of tangible and intangible property, etc., too voluminous to be quoted, make it advisable that care should be exercised by both domestic and foreign corporations operating in the State to acquaint themselves fully with its requirements (See Guaranty Companies; Trust Companies; Transfer of Corporation Stock.)

Courts. Justices of the peace have jurisdiction in matters involving less than $300, county courts in matters involving less than $2,000, except in the administration of estates, where jurisdiction is unlimited. The district court is the court of general jurisdiction. The supreme court is the court of final appeal, and also has some original jurisdiction, as in cases of habeas corpus, mandamus and other remedial writs.

Days of Grace. Are abolished. (See Commercial Paper.)

Depositions. The deposition of a witness out of the State shall be taken upon commission issued by the clerk 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 may be issued to a person agreed upon by the parties or to any judge or justice of the peace, 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, or, upon proper cause shown, may obtain an order of court directing it to be so taken. Depositions can be taken at any time after starting suit.

Descents and Distributions. The estate of an intestate descends one-half to the surviving husband or wife, and the residue to the surviving children and descendants of children, if any; if none, then the whole descends to such surviving husband or wife. Except as enumerated the estate of every intestate descends: 1. To his children surviving, and the descendants of his children who are dead, the descendants collectively taking the share which their parents would have taken if living. 2. If no children nor their descendants, then to his father and mother, share and share alike, and if one dead, then to the other; if no father or mother, then to his brothers and sisters, and to descendants of brothers and sisters who are dead, the descendants, collectively, taking the share of their immediate ancestors in equal parts. 3. If none of the foregoing living, then to the grandfather, grandmother, uncles, aunts and their descendants the descendants taking collectively the share of their immediate ancestors in equal parts. 4. If none of the relatives above enumerated be living, then to the nearest lineal ancestor and their descendants, the descendants collectively taking the share of their immediate ancestors in equal parts. All posthumous children or descendants of the intestate, inherit as if born in the lifetime of the intestate; and all children of the half blood and all legally adopted children shall inherit as children of the whole blood. Illegitimate children inherit if parents subsequently intermarry.

Dower. Common law Dower and curtesy are abolished, as such, but statutory half of husband and wife in each others estate is given in lieu of old common law dower and curtesy. (See Statutes.)

Executions. Executions may be issued where no appeal is taken, and when placed in the hands of an officer become a lien upon all personal property of the debtor not exempt, in the county to which it is issued, and it may be directed to the sheriff of any county in the State. Executions may issue upon judgments at any time within twenty years from the date of entry but from and after twenty years from the entry of judgment, it is considered satisfied unless revived as provided by law. Debtor or legal representative has six months to redeem land from sale under execution. Judgment creditor has three months after expiration of said six months. Judgments can be made a six year lien on real estate of debtor by filing transcript with recorder of the county where the real estate is situated.

Exemptions. Homestead, consisting of town house and lot or lots, or of any farm to the value of not to exceed $2,000, is exempt, 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 and fuel 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; one bicycle and one sewing machine. Persons not the heads of families are entitled to tools, working animals, and stock in trade, not exceeding $300 in value. When debtor is head of family, or wife of head of family, 60 per cent of wages due at time of levy, under execution, attachment, or garnishment, is exempt, when such family resides in the State and is dependant, wholly or partially upon such earnings for support. If such wages do not exceed $5 per week at the time of levy, they are entirely exempt.

Fraud. Parties to any fraudulent sale of any lands, goods or chattels, or who conceal, secrete, remove or dispose of any goods or chattels, or are parties to any bond, suit, judgment, or execution, contract or conveyance had made, or contrived with intent to deceive and defraud, or defeat, hinder, or delay creditors; are criminally liable. One who purchases goods on credit under an assumed or fictitious name with intent to defraud the seller; or having purchased goods on credit shall, with intent to defraud the seller, sell, hypothecate, or otherwise dispose of them out of the usual course of business, or secrete himself, or abscond, shall be guilty of a misdemeanor.

Frauds, Statute of. The following must be in writing: Contracts for leasing of land for period longer than one year or for the sale of lands, or any interest in lands; every agreement which by its terms is not to be performed within one year; every special promise to answer for the debt, default or miscarriage of another; every agreement, promise, or undertaking made upon consideration of marriage, except mutual promises to marry, and every contract for the sale of any goods, chattels, or things in action, for the price of $50 or more, unless the buyer accepts and receives part of such goods or the evidence of some of them, or the buyer at the time pays part of the purchase money. (See Sales of Personal Property.)

Garnishment. (See Attachments.)

Husband and Wife retain their separate property, real, personal and mixed owned at marriage, and any such property which shall come to either of them by descent, devise, or bequest, or the gift of any person, for their own separate use. Such property of the wife is not liable for the husband's debts. Wife 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. Any chattel mortgage upon, or sale of, the household goods used by the family, and any conveyance of, or mortgage upon, a homestead, and any assignment of future wages, or sums to become due in the future, when made by husband or wife residing with the other, must be joined in by that other. A married woman may make a will, but neither husband nor wife shall devise or bequeath more than half of his or her property away from the other without the consent in writing of the other, executed after death of the testator or of testatrix. Marriage revokes a will previously made. The husband is liable for the debts and 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 upon the property of both husband and wife, and in relation thereto they may be sued jointly or severally. Either husband or wife living together can separately declare property of record in the name of the other "A Homestead," by an entry of record over his or her signature. Neither can mortgage nor convey homestead without the signature of the other.

Interest. The legal rate is 8 per cent, but any other rate not exceeding 12 per cent may be fixed by agreement. Eight per cent is allowed on overdue bonds, bills, promissory notes, and judgments. County, town, and city warrants, and other like evidences or certificates of municipal indebtedness bear 6 per cent interest from presentation. Twelve per cent is the maximum interest rate fixed by the usury law, of this state with certain exceptions where a higher rate is allowed to licensed brokers, banks and some others.

Judgments. A transcript of judgment may be filed in the office of the county clerk and recorder of any county in the State, and thereupon such judgment becomes a lien upon all real property owned by the judgment debtor in that county. The lien holds for six years from the date upon which filed (and successive transcripts may be filed.) An unsatisfied judgment should be revived every twenty years. (See Executions.)

Limitations. Actions for the recovery of land must be brought within twenty years after accrual of right. Actions for the recovery of lands actually occupied by another under a connected title deducible of record or under tax or execution or other sale ordered by court must be brought within seven years after possession taken. If title is acquired after taking possession, statute runs from date of acquiring title. Actual possession of land for seven years under claim and color of title with payment of all taxes for said period, constitutes the possessor owner according to the purport of his paper title. The same is true of vacant and unoccupied lands, unless someone with a better paper title pays the taxes for one or more years during

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such term of seven years. Actions of debt founded upon contract, express or implied; upon judgments of courts not courts of record; for arrears of rent; of assumpsit—or case founded on any contract; for waste and trepass 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, also actions for assault and battery, false imprisonment, slander and libel; also actions for penalties or forfeitures of penal statutes Bills of relief for fraud must be filed within three years after discovery, 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. If a judgment has been rendered without this State more than three months before suit in this State, and is based on a cause of action more than six years old, such cause of action can be pleaded in bar of the judgment. The constitutionality of this latter provision has, however, been attacked, and is very doubtful. (See 117 Fed. 400.)

Married Women. (See Husband and Wife.)

Mechanics' Liens. Mechanics, material-men, contractors, subcontractors, builders, miners, and all persons of every class performing labor upon, or furnishing materials used in the construction or repair of any building, or any other structure or improvement upon land, also all who have rendered their professional, skilled service upon such structure, have a lien upon the property; also those who work or furnish materials or machinery for the working of a mining claim or mineral deposit, shall have a similar lien. Liens rank in the following order: 1. Laborers or mechanics working by the day or piece, without furnishing material. 2. Sub-contractors and material-men, whose claims are either entirely or principally for materials, machinery or other fixtures. 3. All principal contractors. Laborers are allowed one month, material men two months, and the original contractor three months after the completion of the structure, within which to file claim of lien. Action to enforce such lien must be commenced within six months after completion of the building upon which it is claimed.

Mortgages. Ordinary mortgages on realty are in common use; also deeds of trust to a public trustee and to private trustees. A trust deed to private trustee is foreclosed as is a mortgage. In case the public trustee is named, the property is sold by him as provided in the deed, after advertisement in a newspaper designated in the trust deed, and such advertisement shall not be less than four weeks. Upon a sale by the public trustee, a certificate of sale is issued. A subsequent incumbrancer may redeem by paying the amount bid, and the sum so paid shall be added to the amount of the subsequent incumbrance. The grantor in the trust deed, or his assigns may redeem from sale within six months. After six months, and within nine months, a judgment creditor may redeem. After the expiration of the period of redemption the public trustee executes a deed to the property to the holder of the certificate of sale, which is assignable. Redemption from sales of mortgaged property the same as sales under executions.

Notes and Bills of Exchange. (See Commercial Paper.)

Partnerships, Limited and Special. A limited partnership may consist of one or more general partners, jointly and severally liable, and one or more special partners contributing a specified amount of cash or property, who are not liable for the debts of the partnership beyond the amount so contributed. Only the general partners can bind the firm. A certificate must be signed, acknowledged, published, and filed of record giving details of partnership. All persons doing business under any name other than their personal names, must file an affidavit showing the real persons represented, or they may not bring suits upon debts due, and may be convicted and fined.

Powers of Attorney. Powers of attorney for the conveyance of lands must be acknowledged in the same manner as deeds, and must be recorded in the same county wherein the real property to be conveyed is situate.

Protest. (See Commercial Paper.)

Replevin. A writ of replevin may issue in any suit to recover possession of personal property upon filing a bond in double the value of the property, with affidavit of ownership or right to possession, wrongful detention and value of property, etc. Redelivery bond in similar amount may be given by defendant in 48 hours after levy.

Sales of Personal Property. Every sale or assignment of goods and chattels in the possession or under the control of the vendor is void, as against creditors or subsequent purchasers in good faith, unless accompanied by immediate delivery and followed by actual and continued change of possession. Sales of any portion of a stock of merchandise otherwise than in the ordinary course of trade are prima facie fraudulent and void against creditors, unless seller and purchaser together, before sale, make inventory, showing quantity, and cost price of the various articles; and unless purchaser makes full inquiry of the seller as to names and addresses of all creditors of seller, and the amount due to each, and obtains an answer; and notifies each creditor of the proposed sale, the cost price, and the proposed selling price; and unless the purchaser retains the inventory and written answer at least six months after the sale. This act does not apply to sales by legal representatives of public officers conducting sales in their official capacity and there are some other exceptions to this law. (See Husband and Wife.)

Suits. (See Actions.)

Taxes are generally a lien on real estate until paid, as also upon stocks of goods including new goods added thereto. Taxes may be paid in two semi-annual installments; the first half on or before the last day of February, and the residue on or before the last day of July of the year following the one in which they are assessed. Tax sales are held in November when tax certificates are given to purchasers on which treasurer's deed may issue after three years. Real estate sold for taxes redeemed any time until treasurer's deed issues. 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. Delinquent taxes carry interest at the rate of 12 to 18 per cent per annum. Household goods to the value of $200 belonging to a head of a family are exempt.

Wills. Males of the age of twenty-one years, and females of the age of eighteen years, may dispose of their property by will, but personal property may be disposed of by will by any person of the age of seventeen years. For restrictions as to married persons, (See Husband and Wife). All wills, whether of realty or personalty, shall be in writing signed by the testator or some one for him in his presence and at his direction, and attested in his presence by two or more credible witnesses. Unless otherwise expressed in the will, an after-born child will share in the property. Devises and bequests to witnesses are null and void, unless the will be attested by a sufficient number of witnesses exclusive of such persons. No will can be revoked otherwise than by the subsequent marriage of the testator, or by burning, tearing, or obliterating the same by the testator, or in his presence and by his direction and consent, or by another will or codicil, declaring the same, duly signed and witnessed or by a formal annulment thereof. The property devised by will must be administered by the county court, and all property of non-residents must generally be administered to clear title to real property situated in this State. (See Husband and Wife: Descents and Distributions. Administration of Estates.)

SYNOPSIS OF

THE LAWS OF CONNECTICUT

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by LOUIS M. ROSENBLUTH, Attorney at Law, New Haven.

Accounts. In all actions for a book debt, the entries of the parties in their respective books shall be admissible in evidence. (For limitation of actions on accounts, see Limitations to Suits.)

Acknowledgments. (See Conveyances.)

Actions. There is but one form of civil action. Mesne process in civil actions consists of a writ of summons or attachment, describing the parties, the court to which it is returnable, and the time and place of appearance, and embodies the plaintiff's complaint All such writs shall be signed by a justice of the peace, commissioner of the superior court, or judge or clerk of the court to which it is returnable. The complaint should contain a concise statement of the facts constituting the cause of action and a demand for relief, and legal and equitable relief may be demanded in the same action, except in actions before justices of the peace, who have no equity jurisdiction.

Administration of Estates. The probate court has jurisdiction of deceased estates. Administration on intestate estates is granted to the husband or wife, or next of kin or to both. On their refusal or incapacity, or upon objection by any creditor or heir to such appointment found reasonable by the court, then to any other person whom the court deems proper. Bonds, which must be furnished by the administrators or executors, are usually made double the estimated value of the personal property. Bonds of surety companies authorized to do business in the State may be accepted. Where the will waives the bond a nominal bond is required, usually in double the amount of the debts of the testator. Deceased estates may be settled as solvent or insolvent. Not less than six months are limited for the presentation of claims against deceased estates, whether solvent or insolvent. Such claims are presented to the administrator or executor if the estate is solvent, or to commissioners appointed by the probate court if the estate is insolvent. Creditors not inhabitants of this State may exhibit their claims against any estate which has not been represented insolvent, at any time within one year after order of notice, and if presented more than six months after order of notice, shall be entitled to payment only out of the clear estate remaining after payment of claims exhibited within time limited. Suit must be brought within four months from the time of receiving written notice from the administrator or executor of a solvent estate of the disallowance of a claim. Twelve months is the usual time allowed for the settlement of deceased estates. Administrators and executors may mortgage real estate if shown to be for benefit of the estate, after due application to and hearing in probate court.

Affidavits. Civil actions do not ordinarily have to be supported by affidavits. Affidavits have little weight as evidence, and are rarely admitted as such.

Aliens. Any alien resident of any of the United States, and any citizen of France, so long as France shall accord the same right to citizens of the United States, may purchase, hold, inherit, or transfer real estate in this State in as full a manner as native-born citizens.

Arbitration. Parties to any controversy desiring to submit the same to arbitration under a rule of court, and having signed and sworn to an agreement to that effect, may, upon filing this agreement in the court having jurisdiction of the subject matter, have this agreement entered of record and obtain a rule of court that the said parties shall submit to and be finally concluded by such arbitration; or the said parties may personally appear in court and acknowledge that they have mutually decided to submit their controversy to the arbitration of certain named persons and may obtain a rule of court of similar purport; or in case of an action pending in court, if the parties thereto desire to refer it to arbitration, each may choose one arbitrator and the court appoint a third; and in either of these three cases, the award of the arbitrators being returned and accepted by the court, judgment shall be rendered pursuant thereto, and execution granted thereon, with costs.

Arrest. The body is exempt in ordinary actions for debts, except for money received by one acting in a fiduciary capacity, or where there is fraud in contracting the debt or in concealing attachable property so that it may not be reached by civil process. In actions generally, no attachment shall be granted against the body unless each cause of action in the complaint be such that execution may be issued against the body of the defendant upon the judgment founded thereon. A debtor committed to jail on civil process can be released on taking poor debtors' oath. The debtor will not be released if his oath is overcome by rebutting evidence.

Assignments in Insolvency. Operation of this section suspended during continuance of U. S. Bankruptcy Act.

Attachments. Attachment may be made upon the original process, and is served by attaching the goods or lands of the defendant, or, if sufficient goods be not found, the person in tort actions. Attachments may be granted upon all complaints containing a money demand. Supplemental attachment may be ordered by the court upon application at any time during the pendency of the action. If the plaintiff be a non-resident, he is required to furnish a bond for prosecution from ten dollars to one hundred and forty dollars, according to amount attached. An attachment lien expires unless execution is levied within sixty days after final judgment upon the attached personal property, or within four months upon the attached real estate. (See Exemptions.)

Banks. (See State Banks and Trust Cos.)

Bills of Exchange. (See Notes and Bills.)

Bills of Lading. Uniform Bills of Lading Act passed in 1911.

Chattel Mortgages. (See Mortgages, Conditional Sales, and Interest.)

Collateral Inheritance or Succession Tax. (See Taxes.)

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Conditional Sales. All contracts for the sale of personal property, except household furniture, musical instruments, bicycles, and such property as is by law exempt from attachment and execution, conditioned that the title thereto shall remain in the vendor after delivery, must be in writing, describing the property and all conditions of sale, and acknowledged before proper authority, and recorded in town where vendee resides. If not made as required, they are held to be absolute sales, except as between the vendor and vendee or their personal representatives. A crime to conceal or convey personal property held on such conditional sale.

Contracts. Ordinary provisions of Statute of Frauds apply. Courts of probate having jurisdiction of the settlement of the estate of any deceased person may, concurrently with the 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, and the court of probate in which the guardian of any minor has been appointed may, in like manner, order such guardian to convey the interest of his ward in any real estate which ought in equity to be conveyed to another person. Contracts for the conveyance of lands or of any interest therein, may be recorded in the records of the town in which such lands are; and such record shall be notice to all the world of the equitable interest thus created. Gaming or wagering contracts are void. Contract of incapable person pending appointment of conservator or of spendthrift pending appointment of overseer, void when selectmen have filed in town clerk's office certified copy of application in case of incapable person, and certified notice of proposed appointment in case of spendthrift. No person who receives a valuable consideration for a contract, express or implied, made on Sunday, shall defend any action upon such contract on the ground that it was so made until he restores such consideration. The Uniform Sales Act passed in 1907 covers contracts to sell. (See Sales by Retail Dealers.)

Conveyances. All conveyances of land must be in writing, signed, sealed, and acknowledged by the grantor, and attested by two subscribing witnesses. The word "seal" or the letters (L. S.) may be used for a seal. The acknowledgment is made by the grantor before a judge of a court of record of this State or of the United States, a clerk of the superior court, court of common pleas, or district court, justice of the peace, commissioner of the school fund, commissioner of the superior court, notary public, town clerk, or assistant town clerk, if in this State, and if in any other State or Territory of the United States, then before a commissioner appointed by the governor of this State, 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. Conveyances of real estate situated in this State, executed and acknowledged in any other State or Territory, in conformity with the laws of such State or Territory, are valid. If the land conveyed belongs to the wife, the husband should join in the conveyance, if married before April 20, 1877. If the land conveyed belongs to the husband, the wife need not join in the conveyance. No separate examination of a married woman is required in taking her acknowledgment. Conveyances, including leases for more than one year, to be effectual against any other person than the grantor and his heirs must be recorded on the town records of the town in which the land lies.

Corporations. Corporations may be formed under the general laws by three or more persons for the transaction of any lawful business except that of bank, savings bank, trust company, building and loan association, insurance company, surety and indemnity company, steam railroad or street railway company, telegraph company; and gas and electric lighting, water company, or any company which shall need to have the right of eminent domain.

A certificate of incorporation must be filed, signed, and sworn to by all the incorporators, giving the name and location of the corporation, the nature of the business, the amount of authorized capital stock, which must not be less than $2,000, number of shares and par value of each, which shall not be less than $25, amount of capital stock with which it will commence business, which shall not be less than $1,000. A certified copy must be filed in the town clerk's office.

The organization fee must be paid to the State, of fifty cents on every thousand of its authorized capital stock up to five million, no payment to be less than $25.

Stock may be paid for either in cash or property, but if in property, a majority of the directors must make and sign upon a record book a statement of the amount for which the property is received and its actual value. In case of fraud in such valuation, directors personally liable.

Certificate of organization must be signed and sworn to by a majority of the directors and filed in the office of the secretary of state, setting forth the amount of stock subscribed for, amount paid in cash and in property, names and addresses of subscribers with number of shares subscribed for, statement that the directors and officers have been duly elected and by-laws adopted, names and addresses of directors, the location of the principal office in the State with the name of the agent in charge.

There must be at least three directors; vacancies in directors may be filled by remaining directors.

No stock can be issued until it has been paid for in full. Receipts for partial payments of stock may be issued by the treasurer. Certificates for fractional shares cannot be issued. The corporation has a lien on capital stock owned by any person for debts due to it from the stockholder. The corporation may acquire its own capital stock with the approval of three-fourths of the stockholders, given at a meeting called for that purpose.

Stockholders' meetings must be held in this State.

Similar corporations may consolidate.

A corporation may be wound up by voluntary agreement of all stockholders, signed and acknowledged, directors acting as trustees to wind up the business.

Receiver may be appointed on application of stockholders owning one-tenth of the stock, in case of fraud, mismanagement, or if assets are in danger of waste by attachment, or when corporation has abandoned its business.

Annual statements must be filed in the office of the secretary of state and a certified copy thereof in the town clerk's office, either in January or July, giving the names and addresses of the officers and directors, amount of outstanding stock not paid for in full with the amount due thereon, the location of the principal office in this State with the name of the agent in charge on whom process may be served. For failure to file annual statement the corporation may forfeit $100 to the State.

Costs. For case before justice of the peace, actual cash costs not less than $5; before city court from $5 to $25, according to amount involved; before court of common pleas or superior court, not less than $25; before supreme court of errors, not less than $50. Attorney's fees not included. Attorney justified in asking deposit of $15 for case in justice's court and $50 in any other court before bringing suit. (See Insurance Companies, Injunctions, etc.)

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, and exceeding $100 in those counties where there are no courts of common pleas. 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; also town courts in many of the towns. Probate courts have jurisdiction of the settlement of the estates of deceased, insolvent, and incompetent persons, and are established in a large number of probate districts—one for each district. Justices of the peace have civil jurisdiction up to $100. In New Haven and Hartford jurisdiction of justice of the peace has been transferred to city court, except in cases of summary process and bastardy.

Days of Grace. (See Notes and Bills of Exchange.)

Deeds. (See Conveyances.)

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, who shall attest the same and certify that the adverse party or his agent was present (if so), or that he was notified, and shall also certify the reason of taking such deposition, seal it up, direct it to the court where it is to be used, and deliver it, if desired, to the party at whose request it was taken. 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 subpœna and capias.

Descent and Distribution of Property in Intestate Estates. (As to the share of a surviving husband or wife, see the title Husband and Wife.) After the share of the surviving husband or wife, the residue of the real or personal estate is distributed in equal proportions among the children and the legal representatives of any of them who may be dead (children who have received estate by advancement of the intestate in his lifetime being charged with the same in the distribution). If there be no children or legal representatives thereof, such residue shall be distributed to the parent or parents, then equally to the brothers and sisters of the intestate of the whole blood, and those who legally represent them; and if there be no such kindred, then equally to the brothers and sisters of the half blood and those who legally represent them; and if none, then equally to the next of kin in equal degree, kindred of the whole blood to take in preference to kindred of the half blood, in equal degree, and no representatives to be admitted among collaterals after the representatives of brothers and sisters.

Dower. (See Husband and Wife.)

Evidence. (See Courts, Insurance Company, Corporations.)

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. 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. (See Exemptions.)

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; any pension moneys received from the United States while in the hands of the pensioner (which has been construed to cover also such pension money when deposited in a savings bank); implements of the debtor's trade, his library not exceeding $500 in value; sundry domestic animals not exceeding $150 in value; so much of any debt which has accrued by reason of the personal services of the debtor as shall not exceed $25, including wages due for the personal services of any minor child (but there shall be no exemption of any debt accrued by reason of the personal services of the defendant against the claim for the defendant's personal board, or for the rental of any house or tenement occupied by the defendant as a place of residence when such rental shall not exceed $25); of the property of any one person having wife or family, two tons of coal, specified amounts of food-stuffs; the horse of any physician or surgeon not exceeding $200 in value, and his saddle, bridle, harness, and buggy, also his bicycle; one boat owned by one person, with rigging, tackle, etc., not exceeding $200 in value, used for planting or taking oysters or clams or taking shad; one sewing machine being property of any one person using it, or having a family; one pew being property of any person having family who ordinarily occupy it, and lots in any burying ground; 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.

Foreign Attachments. Goods concealed in the hands of agents or debts due 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 resides without the State, in the town where the employer resides, and a copy left with the employer. (See also Exemptions.)

Foreign Corporations. Every foreign corporation, except insurance and surety companies and building and loan associations and investment companies (a corporation which has power to or does sell or negotiate its own choses in action or sell, guarantee, or negotiate the choses in action of other persons or corporations as investments), shall, before transacting business in this State, file in the office of the secretary of the State a certified copy of its charter or certificate of incorporation, together with a statement, signed and sworn to by its president, treasurer, and a majority of its directors, showing the amount of its authorized capital stock and the amount thereof which has been paid in, and, if any part of such payment has been made otherwise than in cash, such statement shall set forth the particulars thereof. Sec. 83.—Every foreign corporation with an office or place of business in this State, except insurance companies, surety companies, and building and loan associations, shall, before doing business in this State, appoint in writing the secretary of the

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State and his successors in office to be its attorney, upon whom all process in any action or proceeding against it may be served; and in such writing such corporation shall agree that any process against it which is served on such secretary shall be of the same legal force and validity as if served on the corporation, and that such appointment shall continue in force as long as any liability remains outstanding against the corporation in this State. Such written appointment shall be acknowledged before some officer authorized to take acknowledgments of deeds and shall be filed in the office of said secretary, and copies certified by him shall be sufficient evidence of such appointment and agreement. Service upon said attorney shall be sufficient service upon the principal, and may be made by leaving a duly attested copy of the process with the secretary of the State or at his office. Every foreign corporation doing business in this State shall, within thirty days after an increase or reduction of its capital stock file in the office of the secretary of the State a certificate substantially like that required of domestic corporations organized under the like conditions. The president and treasurer of every foreign corporation doing business in this State which is not required by law to make other annual returns in this State, shall, annually, on or before the fifteenth day of February or August, make, sign, and swear to and file in the office of the secretary of the State a certificate similar to the certificate required of domestic corporations (See Corporations), except that such certificate need not give the name of the agent or person in charge of its principal office upon whom process against the corporation may be served. The secretary thall thereupon record such certificate in a book kept by him for that purpose and shall furnish a certified copy to be recorded in the office of the town clerk of the town in this State in which such corporation has its principal office or place of business, and said town clerk shall record the same in a book kept by him for that purpose. On the fifteenth day of March and September the town clerks of the several towns shall report to the secretary of the State the names of all corporations whose annual reports have been filed for record during the preceding six months, in accordance with the provisions of this section, and the secretary shall report to the attorney-general every six months the names of all corporations which have failed to comply with the provisions of this section, and the attorney-general shall collect all forfeitures due under this section. Every corporation whose officers shall fail to comply with the requirements of this section shall forfeit to the State $100 for each failure. The attorney-general may remit this fine.

Foreign Judgments. Not conclusive on question of jurisdiction. A foreign judgment when used by way of defence, is as conclusive to every intent, as those of our own courts. In an action on a judgment rendered in another State, evidence on the part of the defendant that he had no legal notice of the suit and did not appear, is admissible, although the record of the judgment stated that the defendant appeared by his attorney. Where the foreign court has a peculiar and exclusive jurisdiction, its decree is binding upon the judgment of any other court, into which the same subject comes immediately into controversy. A judgment rendered by a court in one State has no efficacy when it is sought to be enforced in Connecticut, unless such court had jurisdiction of the person against whom it is rendered, acquired either by service upon him of the process in the suit, or actual notice to him of the suit, or at least by his having appeared in it, and thus submitting to the jurisdiction of the court. Jurisdiction presumed to have been properly exercised, if court once had jurisdiction. Notice presumed of resumption of jurisdiction if required by practice in foreign court. A judgment recovered in a sister State is a bar to the further prosecution of an action pending at the time in this State between the same parties on the same cause of action. It makes no difference that the judgment of the sister State has been appealed from, and that the appeal is still pending, where, by the laws of that State, such appeal operates only as a proceeding in error, and does not supersede the judgment. Only such pleas are pleadable to a foreign judgment, as are pleadable when rendered.

Fraud. 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 against those persons only, their heirs executors, administrators, or assigns, to whom such debt or duty belongs.

Garnishment. (See Foreign Attachments.)

Guaranty Companies. (See Surety Companies.)

Holidays. (See Notes and Bills of Exchange.)

Husband and Wife. In all marriages contracted after April 19, 1877, neither husband nor wife acquires by force of the marriage any right to or interest in any property held by the other before the marriage or acquired after the marriage, except as to the share of the survivor in the property of the other as hereinafter stated. Wife married subsequent to April 19,1877, may hold and convey real estate separate from her husband. Separate earnings of the wife are her sole property. On the death of the husband or wife the survivor 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 all of the estate of the decedent absolutely to the extent of $2,000, and one-half absolutely of the remainder of said estate.

Injunctions. Any judge of any court of equitable jurisdiction may, on motion, grant and enforce writs of injunction, which shall be of force until the sitting of such court and its further order therein, unless sooner dissolved. Superior court judge may dissolve temporary injunction granted by other court. All facts stated in application for injunction must be verified by oath. Plaintiff must give bond with satisfactory surety, to answer all damages in case of failure to prosecute to effect, before temporary injunction can be issued, unless the court shall be of opinion that temporary injunction ought to issue without bond. Injunctions may be granted forthwith, if the circumstances of the case demand it; or the court or judge may cause immediate notice of the application to be given to the adverse party, that he may show cause why such injunction should not be granted; and it shall be sufficient, on such application for a temporary injunction, to present to the court or judge the original complaint containing the demand for an injunction, duly verified, without further complaint, application or motion in writing. Whenever a temporary injunction is granted in any cause before the return day thereof, it may be dissolved or modified by the court or judge who issued it, by any judge of the court to which the action is returnable, or by any judge of the superior court; provided a written motion for such dissolution shall be prepared before the return day. Any person who may be directly or indirectly interested in, or affected by the granting of any temporary or permanent injunction, may appear and be heard with regard to granting or dissolving the same. When in any action a temporary injunction has been granted, and upon final hearing judgment shall be rendered adverse to the continuance of such injunction, either party may apply to the court rendering such judgment, representing that he is desirous of taking the case to the supreme court of errors, and praying that said temporary injunction may be continued until the final decision therein; and unless said court shall be of opinion that great and irreparable injury will be done by the further continuance of said injunction, or that said application is made for delay and not in good faith, it shall be the duty of the court to continue said injunction until a final decision be rendered in the supreme court of errors. When in any action judgment shall be rendered for a permanent injunction ordering either party to perform any act, upon similar application to that above mentioned, a stay of operation of such injunction, pending final decision of supreme court of errors, may be granted for similar reasons. The court in which such case is pending may, however, if in its opinion the cause of justice shall so require, dissolve said temporary injunction or remove the stay of said permanent injunction while said cause is so pending in the supreme court of errors.

Insolvency. Suspended, owing to United States Bankruptcy Act.

Interest. Legal rate, in absence of express agreement, 6 per cent; no more than 6 per cent can be recovered in either case after debt becomes payable. Any person who shall loan money upon a note secured by mortgage on personal property, in which the sum of money loaned is stated to be greater than the amount actually loaned, or in which the rate of interest to be charged is greater than the rate allowed by law to be charged by pawnbrokers (25 per cent per annum), shall be punished by fine and imprisonment, and the mortgage and note secured thereby shall be null and voil. No one other than national or state bank or trust company or pawnbroker shall charge or accept more than 12 per cent per annum for interest, but this does not apply to bona fide mortgages of real or personal property.

Judgments carry 6 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 if the defendant makes no appearance on return day. 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.

Jurisdiction. (See Courts.)

Liens. (Mechanics' Liens Mechanics' liens for labor or materials furnished in the construction or repair of any building may be filed by original contractor within sixty days after completion of work; but sub-contractor must serve owner of building with notice of his intention to claim a lien within sixty days after he shall have commenced to furnish materials or render services. Mechanics' liens are foreclosed same as real estate mortgages. Unless foreclosure is instituted, liens expire two years after filing. (For judgment Liens, see Judgments.)

Limitations to Suits. Open accounts and contracts not under seal, six years; contracts under seal and promissory notes not negotiable, seventeen 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. There is no limitation against judgments but the common law presumption of payment after twenty years exists.

Limited Partnerships. Such partnerships (except banking and insurance) shall consist of one or more partners, jointly and severally responsible, as in ordinary cases, to be called general partners; and one or more partners, furnishing capital to the partnership stock, whose liability shall not extend beyond the capital so furnished by them, to be called special partners. Such partnerships shall be conducted under a company name, in which the name of one or more of the general partners shall appear; and if any special partner's name shall be used in said company name, he shall be held liable as a general partner. No such partnership shall be deemed to be formed until the persons forming it shall make, and severally sign and acknowledge before any officer authorized to take the acknowledgment of deeds, a certificate stating the company name and names and residences of all the partners designating which are general and which are special partners, and which of the general partners are authorized to transact the partnership business and sign the firm name, and also the amount of capital furnished by each special partner and the time at which the partnership is to commence and terminate; nor until such certificate, and also a certificate of the amount actually paid in by each special partner, signed and sworn to by such of the general partners as are authorized to transact the partnership business, shall be filed and recorded in the office of the town clerk of the town where the principal business of the partnership is to be carried on; and a copy of such certificate shall be prima facie evidence of the matters therein contained; and the partnership shall be responsible only for the acts of the general partners designated as specially authorized as aforesaid; and copies or said certificates shall, in like manner, be filed in every town where such partnership may have a place of business. Terms of such partnership must be published for six weeks in newspaper published in county where business is to be carried on. Any such partnership may be renewed by filing at any time before its expiration, with the town clerk, a sworn certificate of the general partners, setting forth the time for which said renewal is made, whether the special capital has been reduced or impaired since the last certificate filed by said partnership, and if so, to what amount, and by publishing not less than once a week for two weeks in a newspaper published in county, the time at which the said renewed partnership is to commence and terminate, signed by the partners thereto, and specifying which are general and which are special partners. If the requirements concerning original certificate are not complied with, or false certificate be made, all special partners shall be liable as general partners. All advancements to the capital stock by the special partners shall be in cash and no part of the capital furnished by them shall be withdrawn, either in the shape of dividends, profits or otherwise, at any time while such partnership continues; except that any special partner may lawfully be paid from the assets of such partnership, each year during the continuance thereof, a sum not exceeding 10 per centum upon the cash contributed by him to the capital stock; provided that such payment shall only be made out of the net profits actually earned by such partnerships during the year for which such payment is made. No special partner shall under any circumstances be considered a creditor, or allowed to claim as a creditor. No special partner shall be joined as a party in any action by or against such partnership unless liable as a general partner.

Married Women. (See Husband and Wife.)

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. 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

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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 brickyard. 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. In all chattel mortgages there must be a particular description of each article of personal property. Judgment for deficiency after sale, permitted. Such sum in excess of 10 per cent per annum as is paid for interest shall be applied as payment on account of the principal debt and shall be deducted therefrom.

Notaries Public hold office for two years from first day of February of year in which commissioned, unless commission is sooner revoked by governor. May exercise their function at any place in State. May take acknowledgments, administer oath, take deposition, subpœna witnesses to give deposition. The authority and official acts of any notary may be certified to by the clerk of the superior court of the county in which he resides, except in New London County, where the certification is made by the clerk of the court of common pleas.

Notes and Bills of Exchange. Negotiable Instruments Act now in force.

Powers of Attorney. Where a deed is executed by a power of attorney it is recorded with the deed. Powers of attorney to convey real estate must be executed and acknowledged in the manner required for the execution and acknowledgment of the conveyance itself.

Private Banks. (See end of State Banks and Trust Companies.)

Probate Law. (See Administration of Estates, Appeals, Assignments and Insolvency, Collateral Inheritance Tax, Courts, Descent and Distribution of Property, Husband and Wife, and Wills.)

Protest. (See Notes and Bills of Exchange.)

Records. Warranty, mortgage, quitclaim deeds must be recorded in office of town clerk in town where land lies, also assignments of mortgage, conditional bills of sale, chattel mortgages, assignments of future earnings. Certificate of trade-mark to be filed for record in office of secretary of State. Certificate of unsatisfied judgment to be filed for record in town clerk's office. (See Conveyances, Insurance Companies, Limited Partnerships, Judgments, etc.)

Redemption. (See Mortgages.)

Replevy. Replevin lies for goods wrongfully detained, in which the plaintiff has a general or special property with right to immediate possession. A writ of replevin can not issue except upon an affidavit in which the affiant states the true value of the goods to be replevied, and that he believes that the plaintiff is entitled to the immediate possession of the same, nor until the plaintiff furnishes a bond with sufficient surety in a sum double the value of the property. This bond or recognizance must be signed by the obligors in presence of at least one witness other than the authority taking the recognizance.

Sales. Uniform Sales Act passed in 1907.

Service. Service of a writ of summons in case of a resident is made by reading it and the complaint accompanying it in the defendant's hearing, or by leaving an attested copy in the defendant's hands or at his usual place of abode; in case of a non-resident, the several courts, other than courts of probate, and the judges, clerks, and assistant clerks thereof, or any county commissioner, in turn time or in vacation, may, except where it is otherwise specially provided by law, make such orders as may be deemed reasonable, in regard to the notice which shall be given of the institution or pendency of all complaints, writs of error and appeal from probate, which may be brought to or pending in any court, when the adverse party, or any person so interested therein, that they ought to be made parties thereto, reside out of the State, or when the names or residences of any such persons in interest are unknown to the party instituting the proceeding; and such notice having been given and proved shall be deemed sufficient service and notice.

State Banks and Trust Companies. A reserve fund of 15 per cent of aggregate of deposits must be held and maintained in the banking office, of which 4-15 must be gold and silver coin, demand obligations of the United States or national bank currency. The remainder of said reserve fund may consist of balances subject to demand draft with reserve agents, which are members of the clearing house associations of New York, Boston, Philadelphia, Chicago, or Albany; or national banks, state banks, or trust companies, located in Bridgeport, New Haven, or Hartford, and of railroad bonds which are legal investments for savings banks. No new loans or discounts may be made when the reserve is below 15 per cent. Bank commissioners may apply for appointment of a receiver when the reserve falls below 15 per cent after thirty days' notice.

No one person, corporation or firm may borrow more than 10 per cent of the amount of the capital stock paid in and surplus undivided profits combined, of any state bank or trust company. This does not apply to collateral loans. Penalty of $3,000 for violation of this law. Paper of executive officers or clerks may not be discounted. Loans to parties outside the State can only be made when the loans and discounts in the aggregate amount to one-half of the capital stock.

Books of a bank may be examined by stockholders under certain conditions.

Three-fourths of the directors must be residents of the State. No director may be obligated to a bank or trust company in an amount exceeding 5 per cent of the capital actually paid in and surplus undivided profits combined. This does not apply to loans secured by collateral.

Cashier's bond of $10,000.

At least five reports, verified by oath, must be made each year to the bank commissioners, exhibiting in detail the resources and liabilities of the bank or trust company, ten days after receipt of request therefor from the bank commissioners, which shall be published in a newspaper in the county where the bank or the trust company is located. Penalty of $10 for each day of delay in transmitting report.

Words "bank," "trust," or "savings" may only be used by banks, trust companies and building and loan associations incorporated by the United States or by the general assembly, but this shall not apply to firms or individuals doing business as private bankers or brokers under their own names, who deposit with the State treasurer a bond of $10,000, or acceptable securities of that amount for the protection of customers from styling themselves bankers in the conduct of their business. Banks and trust companies maintaining savings departments must invest deposits according to the laws of the State concerning investments of savings banks, and must make sworn statements to the bank commissioners on October 1st in each year and oftener if required by the commissioners, of the amount of such deposits and the securities in which they are invested. A State Bank or Trust Company may be incorporated under General Laws as provided in Chapter 194, Public Acts of 1913.

Suits. (See Actions.)

Surety Companies. Any corporation with a paid-up capital of not less than $250,000, incorporated and organized for the purpose of transacting business as surety on obligations for persons or corporations, on complying with certain requirements of law may be accepted as surety, upon the bond of any person or corporation required by the laws of this State to execute a bond. Every foreign corporation before transacting any business in this State must deposit with the insurance commissioner a copy of its charter or articles of association, and sworn statement of the condition of its business. The insurance commissioner may thereafter issue to such company a license to do business in this State. Such company must appoint the insurance commissioner its agent on whom process may be served. Such company must file annually on or before March 1st, with the insurance commissioner, a statement of the capital of such company and its investments and risks. An annual license is granted if annual statement be satisfactory. Local agents must procure certificates of authority to act as agent from the insurance commissioner. The insurance commissioner may also at any time examine the affairs of any surety company doing business in the State. A reserve fund must be maintained equal to 50 per cent of the gross amount of premiums received on business in force. No such company can incur on behalf of any one person or corporation a liability for an amount larger than one-tenth of its paid-up capital stock and surplus without giving collateral security.

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 12 per cent interest. 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 2 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. Inheritance taxes are levied on all property within Connecticut possessed by any resident of Connecticut at the time of his decease, and all tangible property within Connecticut possessed by a non-resident at the time of his death which passed by gift, to take effect at death or by will to any person, corporation, voluntary association or society, with exemptions in favor of charities and on certain particuria kinds of property. Rates of the tax are 1 per cent of the value of all property in excess of $5,000 passing to parent, husband, wife or child up to $100,000, with graded increases; 4 per cent on property so passing to wife or widow of a son, husband of a daughter, or brother or sister of the decedent, up to $100,000; 5 per cent of the value of all property in excess of $500 so passing to any person other than those hereinbefore mentioned, up to the amount of $100,000; 6 per cent above that amount.

Transfer of Corporation Stocks. (See Corporations.)

Trust Companies. (See State Banks and Trust Companies.)

Warehouse Receipts. Uniform Warehouse Receipts Act passed in 1907.

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 a child is 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. Wills of non-residents owning property in this State may be proved by filing exemplified copies thereof in district where property is located. Such course should always be taken in order to pass good title to real estate.

Workmen's Compensation Act. Passed in 1913.

SYNOPSIS OF

THE LAWS OF DELAWARE

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by RICHARD R. KENNEY, Attorney at Law, Dover.
(See Card in Attorneys' List.)

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 four days from date of service, or may be made returnable forthwith, upon plaintiff filing an affidavit that there is danger of his losing the benefit of his process by delay. 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.; but before a notary public is preferable. The affiant must sign the affidavit.

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

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creditors; the creditor attaching is allowed a double share for his diligence, not to exceed full amount of debt. 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, and must exceed $50. Unlike domestic attachments the plaintiff in foreign attachments 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.

Banks. There is no general banking act and but one State bank, which was chartered by the legislature in 1807. Banking companies can not be formed at present, except by special act of the Legislature. The holders of stock are taxed at the rate of one-fourth of one per centum on the cash value of each share of capital stock. There have been recently several trust companies formed in the State, either by special act before the 1897 constitution, and by general corporation act since, which have been granted banking powers by special statute. Banks and trust companies are now subject to examination and inspection by insurance commissioner.

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.

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 five 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. No more than one year's wages of servants in house and laborer 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 curtesy. 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 under its corporate seal. Deeds must be recorded within three months after sealing and delivery, to avail against creditors, mortgagee, or bona fide purchasers, without notice.

Corporations. General Corporation Act for all purposes other than banking. Each stockholder 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. All foreign corporations must file with the secretary of state, statement of assets and liabilities, and the name of its authorized agent upon whom process may be served; must pay a State tax of $50, and fees of secretary of state (this State tax is paid but once) must file with the prothonotary of each county the name of authorized agent upon whom process may be served.

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: Supreme court; regular term at Dover third Tuesday in June and January. Court of chancery and orphans' court; 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. Superior court, and court of general sessions are held in New Castle County at Wilmington the first Monday in January, March, June, and November and third Monday in September, in Kent County at Dover, the first Monday in July and the third Monday in February, April, and October, and in Sussex County the first Monday in February, April, and October and last Monday in June in Georgetown. Oyer and terminer meets on call of judges. Jurisdiction—The superior court has jurisdiction in all civil cases, but if suit be brought for less than $50, costs will not be recovered. 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. 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. Priority of lien remains in force five years. Execution may be issued within five years after date of judgment. An execution from a justice is a lien from time writ is received, if levy be made within thirty days and priority of writ remains for two years. Execution can not issue after three years without revival. 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 of employes of corporations are preferred to the execution. Stay of six months is granted in courts of record upon judgments recorded for want of affidavit of defence, 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; tools of trade not to exceed $50 in Kent, or $75 in New Castle County; and to the head of a family in New Castle County $200 of personal property and in Kent County $150, consisting of household goods only. No additional exemption in Sussex. 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. Wages are exempt from execution attachment in New Castle County except for board or lodging. Pianos and organs leased or sold under contract exempt from execution process or distress for rent, provided the lessor or vendor notifies the landlord in writing of the claim thereof.

Frauds. Sale of goods void as to third parties, unless for a valuable consideration and the possession thereof be actually delivered to the vendee. A promise to pay the debt, default, or miscarriage of another to the extent of $5 is binding if proved by the oath of the promisee; for an amount between $5 and $25 must be proved by one credible witness or some memorandum in writing signed by the person to be charged therewith; for an amount exceeding $25 there must be some memorandum or promise in writing signed by the party to be charged therewith.

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

Holidays. Legal. January 1st. February 12th. February 22d, Good Friday, May 30th, July 4th, first Monday in September, Thanksgiving Day, and Christmas, and Saturday afternoon in New Castle County. If legal holiday falls on Sunday the next day is observed. Negotiable paper falling due on legal holiday is due and payable on the next preceding secular day; if falling due on Saturday half-holiday, if not presented for payment before noon, is not due till the next succeeding secular day.

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, for a period of ten years and may be revived and kept alive and a lien by SEI. FA. or agreement before expiration of ten years from date of entry. This lien may be extended into either or both the other 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 recovered before justices of the peace may be entered in the superior court and thus be made liens on real estate after execution and return by Constable on goods of defendant. Satisfaction must be entered within sixty days after payment.

Limitations. Contracts not under hand and book accounts three years, bills and notes under hand six years. Judgments and specialties are merely presumed to have been paid after the lapse of twenty years, but this presumption may be overcome by proof to the contrary. All judgments must be renewed within ten years in order to preserve their lien on real estate. The statute does not begin to run in favor of non-resident debtor until he come into the State, in such manner that he may be served with process, and if a debtor remove after the cause of action has accrued, the time of his absence is not computed. On recognizances of sheriffs', administrators', or executors' bonds, within six years from date. Bond of guardian within three years from the determination of guardianship.

Married Women retain their real and personal property owned at marriage 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 women of the age of twenty-one years and upward may dispose of her property, both real and personal, by will, without the written consent of her husband, but subject to his right of courtesy. Two or more witnesses are necessary for a will. Husband and wife may testify in all civil actions in which either or both are or may be parties to the suit.

Mortgages of Real Property are executed and acknowledged like other deeds. They become a lien from the time they are lodged with the recorder. 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.

Proof of Claims. The full individual names of plaintiffs and defendants, together with style of doing business, must be stated; or if a corporation, the laws of what state under which incorporated. One of the plaintiffs, if a partnership, or the treasurer or cashier of a corporation, must make affidavit to the amount claimed, giving an itemized copy of the cause of action attached thereto. It is advisable to have the affidavit made before a notary public, though it may be made before others. (See Affidavit.)

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 in 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

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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 or duly authorized agent named for said services. In chancery service may be had by publication under order of the chancellor. From a justice service must be personal if forthwith, otherwise four days must intervene before hearing.

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 upward, 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.

SYNOPSIS OF

THE LAWS OF

THE DISTRICT OF COLUMBIA

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by JOHN B. LARNER, Esq., Attorney at Law, Washington.

Acknowledgments. The deed of a corporation shall be executed by having the seal of the corporation attached and being signed with the name of the corporation, by its president or other officer, and shall be acknowledged as the deed of the corporation by an attorney appointed for that purpose, by a power of attorney embodied in the deed or by one separate therefrom, under the corporate seal, to be annexed to and recorded with the deed.

Acknowledgment of Deeds. When any deed or contract under seal relating to land is to be acknowledged out of the District of Columbia, but within the United States, the acknowledgment may be made before any judge of a court of record and of law, or any chancellor of a State, any judge or justice of the supreme, circuit, or territorial courts of the United States, or any justice of the peace or notary public: Provided that the certificate of acknowledgment aforesaid, made by any officer of a State or Territory, not having a seal, shall be accompanied by a certificate of the register, clerk, or other public officer that the officer taking said acknowledgment was in fact the officer he professed to be. Deeds made in a foreign country may be acknowledged before any judge or notary public, or before any secretary of legation or consular officer or acting consular officer of the United States as such consular officer is described in section 1674 of the revised statutes of the United States, and when the acknowledgment is made before any other officer other than a secretary of legation or consular officer or acting consular officer of the United States, the official character of the person taking the acknowledgment shall be certified in the manner prescribed as to deeds out of the District of Columbia but within the United States. No deeds of conveyance of either real or personal estate by individuals shall be executed or acknowledged by attorney.

Actions. The common law forms of actions are used except as modified by statutes.

Administration. The probate court, a special term of the supreme court of the District of Columbia, has exclusive jurisdiction of the settlement of estates. A written petition stating the facts in the case must be filed with the register of wills. This petition is acted upon by a justice of the supreme court of the District, who sits daily. All executors and administrators and guardians are required to give bond with security to be approved by the court. The testator may waive the giving of bond, but the court always requires a bond sufficient to cover the debts of the deceased not to exceed double the value of the personal estate. By act of Congress, certain trust companies incorporated thereunder may act as executor or administrator without bond, and corporations having power under their charters may act as sureties in all cases where individuals can. Creditors may be barred in thirteen months provided the required notice is properly published. Probate court may order sale of real estate to pay debts, in case personal assets are insufficient. Assets of non residents in District of Columbia are subject to claims of local creditors for one year after death.

Affidavits. Affidavits for use in the District of Columbia should be taken before a justice of the peace, notary public, judge of any court of record, or a United States commissioner.

Aliens. Aliens may hold personal property in the District of Columbia, and may acquire real estate by descent. Alien corporations are prohibited from acquiring real estate. Corporations of which over 50 per cent of the stock is or may be owned by persons or associations not citizens of United States can not acquire or own real estate in District of Columbia.

Appeals. Appeals will lie from the municipal court to the supreme court of the District of Columbia where more than $100 is involved, and in actions for the recovery of possession of real estate. Appeals may be taken from the supreme court of the District of Columbia to the court of appeals of the District of Columbia. Appeals may be taken from the court of appeals to the supreme court of the United States:

1. In cases where jurisdiction of trial court is in issue.
2. Prize cases.
3. Constitutional questions or treaties involved.
4. Where validity of any authority exercised under U. S., b an officer is in question and
5. Construction of any law of U. S. is drawn in question.

Arrest. There is no imprisonment for debt in the District of Columbia. The court has the power to imprison for non-payment of alimony in divorce cases.

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 the grounds of his claim and right to recover, and that defendant is a non-resident, or evades service of process, or is about to remove, assign, dispose of, or secrete property with intent to hinder, delay, and defraud creditors, or that the debt was fraudulently contracted. Creditor must give bond, with approved surety or sureties, to be approved by the clerk, in twice the amount of his claim for costs and damages if attachment is wrongfully sued out.

Bills and Notes. The common law of England relative to bills and notes, except where changed by statute, governs all cases in which they are involved. A law similar to the New York Negotiable Instruments Law is now in force in this District. (See Legal Holidays and Protest.)

Chattel Mortgages. No bill of sale or mortgage or deed of trust to secure a debt of any personal chattels whereof the vendor, mortgagor, or donor shall remain in possession, is valid and effectual to pass the title herein, except as between the parties to such instrument and as to other persons having actual notice of it, unless the same be executed and acknowledged and within ten days from the date of such acknowledgment recorded in the same manner as deeds of real estate; and as to third persons not having notice of it, such instrument shall be operative only from the time within said ten days when it is delivered to the recorder of deeds to be recorded.

Collaterals. The holder of the note as collateral security for debt stands upon the same footing as the purchaser and may maintain suit thereon for his own benefit. The collateral pledged may be sold in accordance with the terms of the collateral note which usually provides that the collateral may be sold upon non-payment of the principal of the note, either at public or private sale, and in such cases the purchaser at any such sale obtains a valid title to the collateral sold.

Contracts. Every contract and obligation entered into by two or more persons, whether partners or merely joint contractors, whether under seal or not, written or verbal, and whether expressed to be joint and several or not, is for the purposes of suit deemed joint and several. On the death of one or more of such persons, his or their executors, administrators, or heirs are bound by said contract in the same manner and to the same extent as if the same were expressed to be joint and several. In actions ex contractu against alleged joint debtors it is not necessary for the plaintiff to prove their joint liability in order to maintain his action, but he is entitled to recover, as in actions ex delicto, against such of the defendants as shall be shown by the evidence to be jointly indebted to him, or against one only, if he alone is shown to be indebted to him, and judgment will be rendered as if the others had not been joined in the suit. Any of several joint debtors, when their debt is overdue, may make a separate composition or compromise with their creditors.

Corporations. Any three or more persons may form a company for the purpose of carrying on any enterprise or business which may be lawfully conducted by an individual, excepting banks of circulation or discount, railroads and such other enterprise or business as is otherwise provided for. Such corporations may have a perpetual existence. No such company is authorized to transact business until 10 per cent of the capital stock shall have been actually paid in, either in money or property at its actual value; and the recorder of deeds, before filing any certificate of incorporation, must be satisfied that the entire capital stock has been subscribed for in good faith. All of the stockholders of such company are severally and individually liable to the creditors of the company in which they are stockholders for the unpaid amount due upon the shares of said stock held by them respectively, for all debts and contracts made by such company, until the whole amount of capital stock fixed and limited by such company shall have been paid in, and a certificate thereof shall have been made and recorded. Every such company must annually, except insurance companies, within twenty days from the first of January, make a report, which shall be duly published and which report shall state the amount of capital and the proportion actually paid and the amount of existing debts. Foreign corporations doing business in the District of Columbia are subject to service of process on their agents or on the persons conducting their business, or by leaving copy thereof at the principal place of business of such company, or at the residence of its agent. The affairs of the corporation shall be managed by not less than three nor more than fifteen trustees, a majority of whom must be residents of the District, to be annually elected, except for the first year, by the stockholders, at such time and place as may be provided by the by-laws. The fee of the recorder for filing all certificates of incorporation where capital stock is authorized is forty (40) cents on each $1,000 of the amount of the capital stock of the corporation, as set forth in its certificate, provided that no fee shall be less than $25.

Courts in session continuously throughout the year. Suits on contracts, accompanied by sufficient affidavit of right to recover, result in judgment in twenty days, exclusive of Sundays and legal holidays, after day of service on defendant, unless defendant files an affidavit setting forth facts which, if true, would in law constitute a valid defense.

Days of Grace abolished.

Deeds. The following form of deed is now all that is required in the District of Columbia to convey a fee simple title to real estate:

This deed, made this....day of....., in the year...., by me,..... of....., witnesseth: That in consideration of (here insert consideration), I, the said....., do grant unto (here insert grantee's name), of....., all that (here describe the property)

Witness my hand and seal. .....(Seal.)

A deed must be acknowledged and recorded with the recorder of deeds and takes effect from the time of recording. A scroll is considered a sufficient seal.

Depositions. Depositions of witnesses to be used in any civil cause whether the case be at issue or not, may be taken under any of the following conditions: 1. Where the witness lives beyond the District of Columbia. 2. Where the witness is likely to go out of the United States or out of the District and not return in time for the trial. 3. Where the witness is infirm or aged, or for any reason the party desiring his testimony fear he may not be able to secure the same at the time of trial, whether the said witness resides within the District or not. 4. If during the trial any witness is unable, by reason of sickness, or other cause, to attend the trial, the deposition of such witness may, in the discretion of the court, be taken and read at the trial. The deposition may be taken before any judge of any court of the United States; before any commissioner or clerk of any court of the United States, or any examiner in chancery of any court of the United States; before any chancellor, justice, or judge or clerk of any court of any State or Territory or other place under the sovereignty of the United States, or any notary public or justice of the peace within any place under the sovereignty of the United States: Provided, that no such person shall be eligible to take such deposition who is counsel or attorney for any party to the cause, or who is in anywise interested in the event of the cause.

Descent and Distribution. The ordinary rules of descent may be stated as follows: 1. If an intestate leaves a child or children, or descendant of such child or children, his property descends to such child or children, or their descendants, subject only to the dower right of the widow, if there be one. 2. If the estate descended to the intestate on the part of the father or mother and there be no child or

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the descendant of any child, then to the brothers and sisters and their descendants. 3. If none, to the mother or father or the ancestors of the intestate and their descendants of the blood of the mother or father, grandmother or grandfather, as the case may be, subject to the widow's dower. 4. If none, then to the husband or wife and their kindred in equal degree, equally. 5. No distinction between whole and half blood on part of parent from whom estate descended. 6. If there be no heir, the lands shall escheat to the District of Columbia Personal Property: If a widow and no child or descendants, parent, brother or sister or descendants, the widow shall have the whole, of child or descendants, the widow shall have one-third only· if in child or descendants, but parent, brother, etc., the widow shall have one-half. The surplus shall go as follows: (1) If children or descendants, to them equally per stirpes; (2) If no child or descendants and a father, then to the father; (3) If no father, but a mother, then to the mother; (4) If none, but a brother or sister or descendants, to them equally per stirpes; (5) If none, to collateral relations in equal degree; (6) There is no distinction between the whole and half blood; (7) No representation after descendants of brothers and sisters; (8) Beyond the fifth degree, the personal estate goes to the District of Columbia. (9) The husband on death of the wife is entitled to all her personal property in possession without administration, but administration is usually resorted to for protection of parties dealing with the husband.

Dower. A wife is entitled to dower in all real estate owned by the husband at the time of his death, including equitable as well as legal estates.

Evidence. (See Depositions.)

Executions. Executions may be levied upon all goods and chattels of the debtor not exempt, and upon gold and silver coin, bank notes or other money, bills, checks, promissory notes or bonds, or certificates of stock in corporations owned by said debtor, and upon money owned by him in the hands of the marshal or of the constable charged with the execution of such writ, and also upon all legal leasehold and freehold estates of the debtor in land. Executions on judgments before justices of the peace may be superseded, according to the amount of the judgment, upon good and sufficient security being entered by a person who may at the time be the owner of sufficient real property located in the District, above all liabilities and exemptions, to secure the debt, costs and interests from one to six months, but there can be no stay of execution for wages of servants or common laborers, nor upon any judgment for less than $5.

Exemptions. (Actual residents.) 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 for two months. Exemptions are only allowed where the party claiming such is the head of a family or householder residing in the District.

Foreign Judgments. Suits may be instituted in the supreme court of the District of Columbia on any judgment of a court of record in any other jurisdiction. The declaration in any such case must be accompanied by a transcript of the record of such judgment verified according to the act of congress in such cases made and provided, and judgment in due course may be rendered on such transcript as in any other case.

Garnishment. After judgment the writ of garnishment may issue against specific property or credits in the hands of the garnishee and on the return of the writ, if there be credits, the judgment or condemnation follows. The writ of garnishment can not be issued against the United States or the District of Columbia.

Husband and Wife. The wife's property is exempt from the husband's debts. The husband may convey direct to his wife. The wife may use all of her property of every description as fully as if she were unmarried, and may dispose of the same by deed, etc., as fully as if she were unmarried. She also has power to trade and to sue and be sued, but no married woman under the age of twenty-one years can make a valid deed or conveyance. On the death of a married woman the husband is entitled to an estate by courtesy in her fee simple property of which she dies intestate. On the death of the wife intestate her entire personal estate becomes the property of her husband. The husband is not liable for the debts of his wife contracted before marriage. A husband, who willfully neglects to provide for wife or minor child under sixteen years, in destitute circumstances, may be adjudged guilty of a misdemeanor, and may be fined, or imprisoned, by the court having jurisdiction.

Interest. The legal rate of interest in the District of Columbia is 6 per cent, and in any suit where the contract is tainted with usury the plaintiff forfeits the whole of the interest so contracted to be received, and where usurious interest has been paid it can be recovered provided action for such recovery be brought within one year. In an action on a contract for the payment of a higher rate of interest than is lawful in the District, made or to be performed in any state or Territory of the United States where such contract rate of interest is lawful, the judgment for the plaintiff shall include such contract interest to the date of the judgment and interest thereafter at the rate of 6 per centum per annum until paid.

Judgments. Every judgment is good and enforceable by an execution issued thereon for a period of twelve years from the date when an execution might first have been issued thereon or from the date of the last revival thereof by scire facias. Judgments of the municipal court are not liens on real estate until recorded in the supreme court of the District of Columbia.

Jurisdiction. (See Actions, Appeals, and Municipal Court.)

Legal Holidays. Legal holidays are January 1st, February 22d, May 30th, July 4th, first Monday in September (Labor Day), December 25th, or the following day when any of these dates fall on Sunday, and such day as may be appointed by the President of the United States for fasting and prayer. Every Saturday is a legal half holiday and notes falling due on that day are not protested until Monday. Process is not issued or served by the marshal after 12 o'clock on Saturday.

Limitations. Fifteen years for recovery of lands, tenements or hereditaments; executor's or administrator's bond, five years; instruments under seal, twelve years; simple contracts and recovery of personal property and damages for its unlawful detention, three years; statutory penalty or forfeiture, libel, slander, assault, battery, mayhem, wounding, malicious prosecution, false arrest or imprisonment, one year; all other actions three years. Usual exceptions in favor of persons under disability. Acknowledgment to revive action on debt must be in writing. Part payment will take debt out of statute.

Married Women. (See Husband and Wife.)

Mortgages. Mortgages are almost entirely supplanted by deeds of trust, requiring no court proceedings to foreclose. Joining the wife is necessary to bar dower.

Municipal Court. This court which takes the place of what was formerly known as the justice of the peace court has jurisdiction to the amount of $500. This jurisdiction is exclusive when the amount claimed for debt or damages or value of personal property does not exceed $100, and concurrent with the supreme court of the District of Columbia when it exceeds $100 and not in excess of $500 with right of certiorari in cases of concurrent jurisdiction.

Partnerships. Limited partnerships for the transaction of any mercantile, mechanical, or manufacturing business within the District may be formed by any two or more persons, but the number of special partners is limited to six. The special partners are not liable for the debts of the partnership beyond the fund contributed by them to the capital. A certificate setting forth the firm name; general nature of the business to be conducted; names of all the general and special partners interested therein, distinguishing which are general and which are special, and their respective places of residence; the amount of capital contributed by each special partner to the common stock; and the period at which the partnership is to commence and terminate must be filed with the clerk of the supreme court after having been acknowledged in the manner prescribed for deeds.

Protest. May be made by a notary public under his hand and seal; or by any respectable resident of the place where the bill is dishonored, in the presence of two or more credible witnesses. Where a foreign bill, appearing on its face to be such, is dishonored by non-acceptance, it must be duly protested for same; and where such a bill which has not previously been dishonored by non-acceptance, is dishonored by non-payment, it must be duly protested for same. If it is not protested the drawer and indorsers are discharged. Where a bill does not so appear to be a foreign bill, protest thereof in case of dishonor is unnecessary. The protest must be annexed to the bill or contain a copy thereof and must state the (1) time and place for presentment; (2) the fact that presentment was made and the manner thereof; (3) the cause or reason for protesting; (4) the demand made and the answer given, if any, or the fact that the drawer or acceptor cannot be found.

Records. The exemplification of the record under the hand of the keeper of the same, and the seal of the office or court where such record may be made, is good and sufficient evidence to prove any record made or entered in any of the States or Territories of the United States; and the certificate of the party purporting to be the keeper of such record, accompanied by such seal, is prima facie evidence of that fact. A copy of the record of any deed or other instrument in writing not of a testamentary character, where the laws of the State, Territory, or country where the same may be recorded require such record, and which has been recorded agreeably to such laws, and the copy of any will which said laws require to be admitted to probate and record, by judicial decree, and of the decree of the court admitting the same to probate and record, under the hand of the clerk or other keeper of such record and the seal of the court or office in which the record has been made, is prima facie evidence to prove the existence and contents of such deed, will, or other instrument in writing, and that it was executed as it purports to have been.

Taxes. One and one-half per centum upon assessed value of property, real and personal. Penalty of 1 per cent per month for default in payment. Taxes are payable in May of each year. New assessments are made every three years, for real estate (unless improvements are put on) and every year for personal property by a permanent Board of Assessors.

Trust Companies. Trust companies can be organized under the general provisions of the code on that subject. No trust company can be incorporated with less capital stock than $1,000,000. May do a storage business with a capitalization of not less than $1,200,000. Foreign companies desiring to operate in the District must first comply with the provisions for the organization of trust companies under the laws of this District.

Wills. All wills and testaments must be in writing and signed by the testator, or by some other person in his presence and by his express directions, and shall be attested and subscribed in the presence of the said testator by at least two credible witnesses. No will, testament, or codicil is effectual for any purpose whatever unless the person making the same be, if a male, of the full age of twenty-one years, and if a female, of the full age of eighteen years, and be at the time of executing or acknowledging it, of sound and disposing mind and capable of executing a valid deed or contract. Any will executed after January 17, 1887, and before January 1, 1902, devising real estate, from which it shall appear that it was the intention of the testator to devise property acquired after the execution thereof shall be deemed, taken and held to operate as a valid devise of all such property; and any will hereafter executed, which shall by words of general import devise all of the estate or all of the real estate of the testator shall be deemed, taken and held to operate as a valid devise of any real estate acquired, by said testator after the execution thereof, unless an intention shall appear to the contrary. Where a devisee or legatee dies before the tastator, leaving issue, such issue stands in the place of the deceased devisee or legatee unless a contrary intention appear from the will.

SYNOPSIS OF

THE LAWS OF FLORIDA

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by M. E. Morey, Attorney At Law, Pensacola.

Accounts. Open accounts are barred in three years.

Acknowledgments must in every instance be under official seal. If made in the State of Florida, may be made before any judge, justice of the peace, clerk or deputy clerk of a court of record, or notary public; or if made out of the State, and within the United States, before a United States Commissioner of Deeds appointed by the governor of this State, or before a judge or clerk of any court of the United States or of any state, territory or district, having a seal, or before a notary public or justice of the peace of such state, territory or district, having an official seal, and the certificate of acknowledgment or proof shall be under the seal of the court or officer as the case may be. If made out of the United States, before any commissioner of deeds appointed by the governor of the State to reside in such country, or any notary public of such foreign country, or before any minister charge d'affaires, consul-general, consul, vice-consul, commercial agent, or vice-commercial agent of the United States appointed to reside in such country. Conveyances of dower and powers of attorney for the execution of deeds to real estate must be executed in like manner as conveyances of real estate. A wife's acknowledgment must be taken separate and apart from her husband. Officers must certify that the grantors are known to him. The following is the usual form adopted, viz:

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State of Florida,
County of.....}

Before the subscriber personally appeared.....and his wife.....known to me to be the individuals described in and who executed the foregoing instrument who acknowledged that they executed the same for the uses and purposes therein expressed and the said.....wife of the said.....being by me further and privily examined separate and apart from her said husband, acknowledged and declared that she executed the same freely and voluntarily, and without fear, apprehension, compulsion, or constraint of, or from, her said husband, and for the purpose of renouncing and relinquishing all her right, of whatsoever kind, in and to said property.

Given under my hand and seal official this.....day of..... 19.....

Notary Public.

My commission expires.....(See notaries.)

Actions. Suits shall be begun only in the county (or, if less than $100 in justice district) where the defendant resides, or where the cause of action accrued, or where the property in litigation is. If brought in any county where defendant does not reside, the plaintiff, or some person in his behalf, shall file with the precipe or bill in chancery, an affidavit that the suit is brought in good faith and with no intention to annoy the defendant. This latter provision does not apply to suits against non-residents. Where there are joint defendants suit may be brought in any court (or justice district) where any one of the defendants resides, or where the cause of action accrued or where the property in litigation is. Corporations (domestic) can only be sued in a county where they keep an office. Foreign corporations may be sued in any county where they have an agent, or where the cause of action accrued or where the property in litigation is.

Administration of Estates. Upon the death of a person intestate or having made a will but appointing no executor, the county judge appoints an administrator, preferring first the next of kin; but if none such apply, then, upon notice given by publication, any creditor or suitable person. No minor can be appointed. If no one applies for letters of administration within sixty days after death, the probate court may order the sheriff to act. The administrator appointed by the court must give bond in amount to be fixed by the probate judge, respect being had to the value of the estate. The sheriff when acting as administrator is liable upon his official bond. Claims against an estate are barred after two years from date of notice given by administrator to present same. Debts due more than five years prior to death are barred, saving to married women, minors and persons non compos mentis, imprisoned, or out of State, three years, after removal of disabilities. The compensation of the administrator is determined by the court and, in addition to compensation for his ordinary duties, not to exceed 6 per cent of money received for sales made of personal and real property. Administrators must make annual settlements before the first day of June each year or forfeit commissions. The Circuit Court is empowered to authorize administrator or executor to carry on deceased's trade or business for a reasonable time.

Affidavits may be made before any judge, clerk of the circuit and supreme courts, justice of the peace, or notary public.

Aliens. No distinction between and citizens, except that they are not allowed to vote.

Appeals. Appellate proceedings for the common law side are by writ of error, which must be sued out within six months from the date of the judgment. The record must be filed in appellate court on or before the return day of the writ, under penalty of dismissal. Questions of fact can only be taken up by bill of exceptions, which must be presented within the term of the court unless by special order the time is extended. Appeals in chancery may be taken within six months and the law governing writs of error as far as it relates to filing of transcripts of records and proceedings thereon and filing assignment of errors, the duty of appellate court in giving judgment, in causing execution of its decrees and quashing writs of error, are applicable to appeals in chancery. Notice of appeal in chancery must be filed with clerk and recorded in minutes. This gives appellate court jurisdiction.

Arbitration. Parties to the controversy may make a rule of court of any arbitration to which they may desire to submit by filing a statement of agreement of the matters they desire to arbitrate in writing with the court having jurisdiction, which statement shall include the names of the arbitrators and the umpire. An award upon such arbitration can only be set aside for fraud, corruption, gross negligence, or misbehavior of one or more of the arbitrators or umpire, or evident mistake acknowledged by the arbitrators or umpire, who made and signed the award.

Arrest. No arrest for non-payment of money unless it be for non-payment of a fine lawfully imposed.

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.

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 resides beyond the limits thereof, or is actually removing or about to remove 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. Attachment may also issue for a debt not due, upon affidavit stating that the debt is actually existing, and that the defendant is actually removing his property beyond the limits of the State, or is fraudulently disposing of his property for the purpose of avoiding the payment of his just debts or demands, or is fradulently secreting his property for such purposes. Proof must also, be exhibited to the officer by affidavit other than that of the plaintiff, of the existence of the special ground. The making of the affidavit causes all debts to mature for the purposes of the suit. Plaintiff must give bond, with two securities, in at least double the debt or sum demanded. Service of notice of the suit may be either personal or by publication where attachment is levied and property is not retaken by defendant. No arrest allowed in civil actions. Writs of garnishment may 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, and that affiant expects to obtain a judgment for a specified amount.

Banks. No banking company shall be organized with a capital less than $50,000, except that banks with a capital of not less than $15,000 may, with approval of comptroller, be organized in any city or town containing not more than 3,000 inhabitants, and that banks with a capital stock of $25,000 may, with the approval of the comptroller, be organized in any city or town of not more than 6,000 inhabitants. 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, except national banks, 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 the whole of the capital stock must be paid in cash. 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 shares of stock of $100 per share. The comptroller, with the aid of the courts, winds up the affairs of insolvent banks.

Bills of Lading. Bills of lading are evidence against the carrier of the direction by which freights are to be received, carried, and delivered—collector or holder of commercial paper, attached to bill of lading not a warrantor of the quantity or quality of the goods represented thereby, except by express contract in writing, and the officers agents, and employes of the carrier are required to comply with the terms of the bill of lading under penalty of criminal prosecution.

Chattel Mortgages and Deeds of Trust. All conveyances intended to secure the payment of money are mortgages. Chattel mortgages must be recorded or the property delivered to mortgagee to make them effectual against bona fide creditors and purchasers for value. Injunction will be granted against the removal of mortgaged personalty from the State; can only be foreclosed by bill in chancery unless under $100, and upon personal property, when a common law action may be brought in justice of the peace court, and mortgage filed with precipe. The form and effect of trust deeds have not been disturbed by statute. It is a criminal offence to mortgage personal property more than once without the consent of first lienor.

Collateral Security. It is a misdemeanor to sell, pledge, loan, or in any way dispose of collateral security without the consent of pledgor. A written agreement may be made at the time of making the pledge for the sale of the collateral in such manner and upon such terms as the parties may desire.

Contracts. Statute of Frauds. In order to bind an administrator personally, or any one for the debt or default of another, or one upon an agreement made in consideration of marriage; or upon contracts for the sale lands, tenements, or hereditaments or any uncertain interest therein, or for any lease thereof for a period longer than one year; or upon an agreement not to be performed within one year, there must be an agreement, note, or memorandum thereof in writing signed by the party to be charged, or some one lawfully authorized by him. Contracts for the sale of personal property must be in writing, or the property must be delivered or earnest money paid. Newspapers and periodicals must either be subscribed for or ordered in writing.

Conveyances. (See Acknowledgments.) All conveyances of real estate, or any interest therein for a term of years of more than two years, must be by deed in writing, signed, sealed and delivered in the presence of at least two subscribing witnesses; and in order to be effectual against subsequent grantees or incumbrances, must be recorded. The wife's separate estate can be conveyed only by the joint deed of herself and husband, and confirmed by her acknowledgment, taken separate and apart from her husband. Words of limitation unnecessary. Husband may convey direct to wife.

Corporations may be organized for any lawful business under a general law. Stockholder liable only for amount unpaid upon subscription. Charter fee of $2 for every $1,000 of capital stock, payable to the State, but no fee is less than $5 and none over $250.

Costs. Non-resident plaintiff required to give $100 bond to secure costs. The defendant may have suit dismissed if bond is not given.

Courts. Circuit courts hold two terms a year in each county, except in first and eleventh circuits where they hold three terms a year, 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.

Creditors' Bills may be brought before claim is reduced to judgment, but suit at law must be first brought and judgment must be obtained before decree can be rendered.

Days of Grace are abolished.

Depositions may be taken upon commission when witness resides out of the county, or is bound for sea, or is about to go out of the State to remain until after the trial of the cause, or is very aged or infirm; or when oath is made that a material part of the case or defense depends upon the testimony of such witness. The time for the suing out of the commission, the names of the witnesses, and the name of one commissioner must be given to opposite side a reasonable time before commission is issued. Printed instructions for the guidance of commissioners usually accompany commission. Fees of not less than $5.00 a witness are to be taxed as costs by the clerk and paid by losing party.

Descent and Distribution of Property. Property descends: 1. To the children and husband in equal shares. 2. If there be no children then all to the husband or wife. 3. If there be no children, husband or wife, then to the father and mother in equal shares, or to survivor. 4. If no father or mother then to the brothers and sisters and their descendants. 5. If there be no brother or sister nor their descendants, then the estate shall be divided into moieties, one of which shall go to the paternal and one to the maternal branches in the following course: 1. To grandfather. 2. To grandmother, uncles and aunts. 3. To great-grandfathers. 4. To great-grandmother, brothers and sisters of great-grandfathers, etc., passing first to nearest lineal male and then to lineal female ancestors and their descendants. The estate of an infant decedant, if without issue, leaving no husband or wife, shall descend: 1. To father of infant. 2. Mother of infant. 3. Brothers and sisters of infant. 4. In case no father, mother, brothers, or sisters or their descendants surviving, then it descends according to the general rules of descent prescribed by statute. Half-bloods inherit only one-half. Adopted children are treated as children of blood. Bastards inherit and transmit through mother's side, as if legitimate. Aliens have same right as citizens. There are no entailed estates nor right of survivorship.

Dower. Deceased may not by will cut off his widow's right to dower. If dissatisfied with terms of will, she may dissent within one year after probate of will and she will then be entitled to one-third of the real estate for life, and, if there are two or more children, to one-third of the personalty in fee simple; if there are no children, or only one, she will be entitled to one-half the personalty. She may within one year elect to take a child's part in lieu of dower. If the husband die intestate, without children, the wife takes the whole estate, or dower, at her election.

Evidence. Witnesses not disqualified by reason of interest. In civil cases, husband and wife may testify for or against each other. In suits by or against lunatics or personal representatives, heirs-at-law, next of kin, assignee, legatee, devisee, or survivor of a person deceased, no evidence of a transaction or communication between such lunatic or deceased person and the opposing party or those under whom he claims, can be given by the opposing party, unless such evidence is first offered in behalf of such lunatic representatives, legatees, devisees, etc.

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Executions. Executions can be issued immediately upon the entry of the judgment and within three years thereafter, and are a lien upon real estate from date of entry, and upon personal property from the time the sheriff receives them. They can be renewed any time within twenty years from entry of judgment. Both real and personal property are subject to sale under execution. 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 garnishment.

Foreign Corporations. Commercial corporations can do business in this State without restriction upon complying with requirements as to foreign corporations, provided its name is not the same or so nearly similar to any domestic corporation as to cause confusion. If no officer in State upon whom service of process can be made, such service may be made upon any agent transacting business for it in the State.

Foreign Judgments. Judgments obtained in the several courts of the State, may be recorded in any county and have same force and effect as if originally obtained therein. Judgments obtained in other States or countries, merely evidence, and have to be sued upon to be made effective as judgments.

Fraud. (See Limitations of Actions.) Obtaining money or property under false pretense or by falsely personating another, are punishable criminally.

Garnishment. (See Attachment.)

Guaranty Companies. Guaranty Companies are permitted to become surety upon bonds for all purposes after complying with certain statutory requirements.

Holidays. Whenever reference is made, in contracts to be performed in Florida, to legal holidays, such day shall be understood to be the days mentioned under title Notes and Bills of Exchange, and Good Friday.

Husband and Wife. The husband has full control of wife's property and is not chargeable by the wife with the rents and profits. Must be joined with wife in sales of her property. Homestead can only be alienated by their joint deed. Husband not liable for wife's antenuptial debts. Has no interest in her separate earnings. Has action for negligence causing her death; wife's property not generally liable for husband's debts. Wife may sue with respect to separate estate without husband joining. Infant wife may join husband in sale of her real estate.

Injunctions. Injunctions are granted without bond upon affidavit of inability to give bond, and upon proof satisfactory to the judge that such affidavit is true, and that the statements of the bill are true. Injunctions are granted to stay proceedings at law; to restrain the sale of property under execution or decree obtained against one other than the owner of the property; to restrain the destruction of timber by cutting, boxing, or otherwise; to restrain a levy upon exempt property; to prevent the claiming of exemptions upon property not legally exempt; and to prevent the removal from the State of mortgaged personal property.

Insolvency. Statutes suspended by national bankruptcy law.

Insurance Companies. Foreign and domestic, are placed, by statute, under control of insurance commissioners, composed of State treasurer, State comptroller, and attorney-general. They must annually file a statement with, and obtain from the State treasurer, a certificate before being authorized to do business. Certificate may be revoked if company refuses to pay judgments which have been legally obtained against it.

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

Judgments of a court of record are a lien for twenty years 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. Judgments of justice of the peace may be made a lien upon real estate by recording in the office of clerk of circuit court.

Liens. In order to secure a lien by lis pendens, a statement must be filed with the clerk of the circuit court, and recorded by him in a book kept for that purpose, setting forth the names of the parties, and the nature of the relief sought, and the description of the property upon which it is desired to obtain a lien. Statutory liens are given to laborers and material-men. Property for which materials are furnished upon which labor has been done, is liable to persons not in privity with owner to the extent of the unpaid balance of debt due to contractor. Owner personally liable in like amount. Statutory liens upon real estate, in order to be available as against subsequent purchasers or lienors, must be recorded within three months, and suit must be brought within twelve months after the furnishing of the material, or the performance of the labor. Liens upon personal property exist only while possession is retained by lienor.

Limitations of Actions. Civil actions can only be commenced within the following periods after the cause of action shall have accrued, to wit: Actions on Florida judgments, actions on contracts or obligations in writing and under seal twenty (20) years; actions for the recovery of real property, actions on judgments of courts of the United States or any other state or territory seven (7) years. On contracts in writing not under seal, five (5) years. On all actions not herein and specifically mentioned, four (4) years. Trespass to realty, action upon liability created by statute other than a penalty of forfeiture, taking, detaining or injury to chattels, for relief on the ground of fraud, upon contract not founded upon instrument of writing, including an action open account for goods, wares and merchandise, three (3) years. Actions for libel, slander, assault, battery, false imprisonment, or an action by another than the State upon a statute for a penalty or forfeiture two (2) years. Actions for wrongful death of a child, actions against railroad companies for killing cattle, and any action by the State for a statutory penalty or forfeiture, one (1) 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 husband's 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. Wife may sue concerning her real estate without joining her husband with her in the suit. 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.

Minors. Both sexes attain their legal majority at the age of 21 years. Minors who deposit in savings banks may control, transfer or withdraw the money so deposited. All other contracts made by them are voidable, except for necessaries.

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; becomes subject to debts of mortgagee if left in his possession more than two years without the mortgage being recorded.

Notaries. Both men and women over twenty-one years may be appointed notaries public. They must renew commissions every four years. May administer oaths, take acknowledgments and perform marriage ceremony. $500 bond is required to be given. Certificate must show date of expiration of commission.

Notes and Bills of Exchange. Form and interpretation defined by statute. No requirement that it shall be made payable at a bank or any fixed place. 5 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, 19th of January, 26th of April, first Monday in September, any general election day, and Saturday (except demand paper, which may be presented before 12 o'clock Saturday unless the whole day is a holiday), 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 observances, Shrove Tuesday or Mardi Gras in every city in which there is a carnival association organized for the purpose of celebrating it, shall be deemed presentable for payment or acceptance on the secular or business day next succeeding such holiday.

Partnership, Limited, and Special. None.

Powers of Attorney. Any contract or conveyance may be made by power of attorney. A conveyance of a married woman's real estate by power of attorney in order to be valid the power of attorney must be acknowledged by her separate and apart from her husband, and the acknowledgment must state that she executes it freely and voluntarily, without compulsion, fear, apprehension, or constraint of or from her husband. The husband must join either in the deed or powers of attorney. Powers of attorney for the conveyance of real estate must be recorded.

Probate Law. (See Administration of Estates.) The county judge has original jurisdiction of all matters relating to the administration of estates of decedents.

Protest. (See Notes and Bills of Exchange.)

Records. Records of deeds and mortgages are kept in the office of the clerks of the several circuit courts, and the original must be recorded in the county within which the property lies. Wills are required to be recorded with the several county judges and may be probated in any county in which the deceased left property, if he dies out of the State. If death takes place within the State, then in the county in which he has had residence, house, or other place of abode at the time of his death, and if he had none such, then in the county wherein he died.

Redemption. None, excepting tax sales.

Replevin lies for goods or chattels wrongfully taken, except when taken for taxes, or under execution, or at suit of defendant when the property was originally replevied from defendant and has been delivered to plaintiff, or when plaintiff is not entitled to possession. Affidavit must be filed, describing property sought to be recovered, and stating that it was not taken for any tax, fine levied by virtue of any law of the State, nor seized under execution or attachment against the goods and chattels of the plaintiff; liable to execution and bond in double the value of the property with two sureties given before the writ is issued. Defendant may release the property within three days by forthcoming bond.

Seal. A scrawl or scroll, printed or written, affixed as a seal to any written instrument, is effectual.

Service of Process. Out of circuit court, made by the sheriff or his deputy. Out of county judge's or justice of peace courts, may be made by sheriff or constable. Service in civil actions may be made either upon the person of the defendant, or by leaving a copy at his residence with some person over fifteen years of age. (See Foreign Corporations.)

Suits. Actions at law are commenced by filing a precipe with the clerk. Personal service is required except in suits by attachment and garnishment. 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. Taxes are not due and payable until the first day of November, and if not paid by first day of the following April property may be sold. Owner has two years within which to redeem. Taxes are a lien from the first day of the year of the assessment, and have the force and effect of a judgment upon which execution may issue.

Testimony. (See Depositions.)

Transfer of Stock. Stock is transferable in the manner prescribed in the by-laws. No stock can be transferred until, after all previous assessments thereon have been fully paid. The transferee succeeds to all the rights and liabilities of the prior holder.

Warehouse Receipts. The warehouseman may give a receipt for goods deposited with him, describing such goods, and such receipt is negotiable, and transfers title to the holder.

Wills. Any person over twenty-one years old and of sound mind may make a will. This includes married women. Wills of real estate must be signed by testator or some person in his presence and by his express direction, and must have two witnesses who must subscribe in testator's presence. Wills of personal property must be in writing and signed by the testator or some one in his presence, and by his express direction. Nuncupative wills are good as to personal property. Revocation may be by subsequent will or codicil attested like the original, or by burning, cancelling, tearing or obliterating the same by the testator or by his direction and consent, or by the act and operation of law. Wills must be probated before admittance in evidence. Foreign wills, when duly probated according to laws of the State, where made and duly recorded in this State, are as effective as wills executed in this State. Foreign wills are construed according to law of State where they are executed.

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SYNOPSIS OF

THE LAWS OF GEORGIA

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by BROWN & RANDOLPH, PARKER & SCOTT, Attorneys at Law, Atlanta. (See Card in Attorneys' List.)

Acknowledgments. (See Deeds.)

Actions. All distinction between suits at law and in equity is abolished. Equitable relief can be had in superior courts of law.

Administration of Estates. Letters of administration issue in the line of preference, first to the husband or wife, second to the next of kin, relations by consanguinity are preferred to those by affinity. If there are several of the next of kin in the same degree, preference is given to that one selected in writing by those most interested in the estate. If no preference is expressed the ordinary exercises his discretion. If no application is made by next of kin a creditor may be appointed, and if no application is made the ordinary will vest the administration in a county administrator, an officer authorized by statute for that purpose. Administrators must give bond in double the value of the estate. Out of the estate of each deceased person, the first charge, after funeral expenses, is a year's support for the family, to be laid off by commissioners according to the condition and standing of the family. Foreign administrators may act in this State on giving bond to the ordinary where they qualify. The bondsmen must be residents of this State. A citizen of any other State may act as executor of the will of a deceased citizen of this State when he has the same interest and will give the same bond as in the case of foreign administrators. Administrators of other States may sue in this State by filing in the office of the clerk of the court, to which suit is brought, a properly authenticated copy of their letters of administration.

Affidavits. Pleas and defenses in the courts of this State which are required to be under oath, may be made before any official of the State or county where the oath is made, who is authorized by the laws of such State or county to administer oaths. Prima Facie the official attestation of the officer is evidence that he was authorized to act. Any non-resident seeking equitable relief, when called on to verify proceedings, should be sworn before a commissioner of this State, or a judge of a court of record where the oath is made, with the attestation of the clerk of such court that the signature of the judge is genuine, and that the court over which he presides is a court of record.

Aliens. The subjects of governments at peace with the United States and this State are entitled to the rights of citizens of other States, resident here, in so far as they accord to them the privilege of purchasing, holding, and conveying real estate.

Appeals. (See Courts.)

Arbitration. Under the law of Georgia disputes and controversies relating to rights, or property, may be submitted to arbitration.

Arrest. The constitution of Georgia declares that there shall be no imprisonment for debt. But in an action to recover personal property the defendant will be arrested by the officer to whom process is directed, and will be committed to jail unless he shall give bond and good security, or deliver up the property, or show to the satisfaction of the court that it is without his power to produce it.

Assignments. Assignments for the benefit of creditors are permitted.

Attachments. A summary process of attachment will lie in the following cases: 1. Where the debtor resides out of the State. 2. Where he is actually removing, or about to remove, without the limits of the county. 3. When he absconds. 4. When he resists a legal arrest. 5. Where he is attempting to remove his property beyond the limits of this State. 6. Where he has disposed of, or threatens to conceal, his property, liable for the payment of his debts, or shall make a fraudulent lien thereon to avoid paying his debts. Attachment will lie to recover the purchase money of an article sold when the debtor is still in the possession of the property. Attachments may issue upon affidavit by the plaintiff, his agent or attorney, who must swear that one of the state of facts exists which authorize an attachment, and also as to the amount of the claim. Bond and security, in double the amount sworn to, must accompany the affidavit and the officers require personal security. Non-resident corporations are liable to attachments, and one non-resident may attach the property of another non-resident in this State, except for wages earned without the State.

Banks. Any number of persons, not less than three, may form a corporation for the purpose of carrying on the business of banking. Such corporations, when organized, has power to have continual succession for thirty years, with right of renewal; to sue and be sued; to have and use a common seal; to appoint officers and agents; to make by-laws; to hold, purchase, dispose of, and convey such real and personal property as may be necessary for its uses and business; to discount bills, notes, or other evidences of debt; to receive and pay out deposits, with or without interest; to receive special deposits; to deal in foreign exchange; to lend money upon personal security, or pledges of bonds, stocks, negotiable security; to take and receive securities by mortgage or otherwise on property real or personal. The business of the corporation shall be under the management and control of a board of directors, to consist of not less than three or more than fifteen of the members of the corporation, who must be owners and holders of one or more shares. No bank shall be chartered without a capital subscription in good faith of at least $25,000, of which not less than 20 per cent, and in no case less than $15,000 must be paid in before filing the declaration with the secretary of State. The corporation shall be responsible to its creditors to the extent of its capital and its assets, and each stockholder shall be individually liable for all debts of the corporation to the extent of his unpaid shares of stock, and shall be further and additionally liable, equally, and ratably (and not one for another as sureties) to depositors of said corporation, for all moneys deposited therein in an amount equal to the face value of their respective shares. All corporations doing a banking business in this state shall make to the State bank examiner, under oath, statements showing the resources of the bank or corporation, at the close of business on any day specified by th bank examiner. No bank shall loan to its officers any money without good collateral, or other ample security, and when such loan exceeds, 10 per cent of the capital stock it shall not be made until approved in writing by a majority of the board of directors. No bank or corporation doing banking business shall reduce its cash in hand, including amount due by banks and bankers, and the value of all stocks and bonds actually owned and held, below 25 per cent of demand deposits. No bank or corporation doing a banking business shall loan to any one person, unless such loan is amply secured by good collateral security, more than 10 per cent of its capital stock and surplus. Banks may charge same rate of interest as individuals, and the rules of bank discount, that is to say, taking interest in advance within the lawful rates, have been held not usurious. No dividend shall be declared by any bank except from the net profits, nor shall the capital stock be applied to the purchase of its own shares. If the assets of a bank are insufficient to pay its liabilities, a receiver when appointed, shall bring suit against the stockholders in his own name for their unpaid subscriptions. In the absence of a contract, expressed or implied, to the contrary, the bank taking paper for collection is liable for the defaults of its agents and correspondents to whom the paper has been entrusted for collection. If any insolvent bank or banker, with notice of such insolvency, shall receive money or general deposits, and fail to pay the depositor within three days after demand, such banker or officer in charge of the bank receiving the deposit shall be punished as prescribed in the penal code. The State has a special lien for all public money deposited.

Bills of Lading and Promisory Notes. A bona fide assignee of a bill of lading of goods will be protected in his title against the seller's right of stoppage in transit. It will not be necessary to protest promissory notes in order to bind the endorser except in the following case: 1. Where the paper is made payable on its face at a bank or banker's office. 2. Where it is discounted at a bank or banker's office. 3. Where it is left at a bank or banker's office for collection. Accommodation endorsors, sureties and endorsors may be sued in the same county and in the same action with the maker, drawer or acceptor. Bills of exchange must be accepted in writing to bind the acceptor. A contract to pay attorney's fees cannot be enforced unless the debtor when served ten days before suit is filed with a written notice of intention to sue with amount and term of court to which suit will be brought, shall fail to pay such debt before return day. A waiver of homestead in a promissory note is a bar to such a claim as against the collection of such note. Promissory notes and contracts containing reservation of title to personal property must be executed before a notary public, justice of the peace, or clerk of a court of record, and must be recorded as mortgages to hold such property as against third parties or innocent purchasers.

Collaterals. The holder of a note as collateral security for a debt stands upon the same footing as the purchaser. Property left in pledge or pawn may be sold at public sale to the highest bidder, upon thirty days notice.

Corporations. Power to create corporations in this State is vested in the general assembly and the superior court. Said courts may grant charters to all corporations except banking, insurance, canal, navigation, express, and telegraph companies and railroads. The general assembly may grant charters for the corporations above enumerated. A charter for a private corporation is obtained by a petition to the superior court, setting forth the object, particular business, corporation name, capital, place of business, time for which incorporation is desired, not exceeding twenty years. The petition and order granting the same constitute the charter. In such corporations the liabilities of the stockholder is measured by the amount of unpaid stock subscription due by him. In the charter of many banks now organized the rule of personal liability varies. In some banks stockholders are liable as partners: In others liability exists under the general rule, viz: to the extent of twice the amount of stock held, and in some banks liability exists only to the extent of stock and unpaid subscriptions thereon. The payment of 10 per cent. of the capital stock is necessary before commencing business. General powers of corporations are conferred on all corporations organized in this state. All corporations organized under the laws of the State or doing business therein are required to register with the Secretary of State and pay one dollar or be liable to a penalty of $50. Voluntary dissolution of a corporation may be granted by the Superior Court upon petition filed by the Corporation if authorized by two-thirds of capital stock. Lost stock certificates must be established by petition to Superior Court.

Costs. A deposit of $10 is required in courts of record from non-resident plaintiffs before the filing of suits and a deposit of $6 in all divorce cases.

Courts. The term, jurisdiction, etc., of the several courts of the State are as follows: JUSTICE COURTS hold monthly sessions and have civil jurisdiction up to $100. In criminal matters they are only committing courts. COURTS OF ORDINARY hold their sessions monthly and have jurisdiction over wills, administrations of estates, and of the conduct of administrators, executors and guardians. COUNTY COURTS have monthly and quarterly sessions. Their jurisdiction is limited to controversies not exceeding $300. CITY COURTS hold four sessions per annum, but the city court of Atlanta has six terms. The jurisdiction of city courts is unlimited, except in matters of divorce, titles to land and administration of equitable relief. SUPERIOR COURTS have jurisdiction of all suits and controversies and have exclusive jurisdiction in equity powers, divorce cases, and suits involving titles to land, and on the criminal side exclusive jurisdiction of all cases involving life or imprisonment in the penitentiary.

Deeds. Deeds to real estate in Georgia must be in writing, and should be executed in the presence of two witnesses, one of whom shall be an officer authorized for that purpose. They should be recorded in the office of the clerk of the superior court of the county where the land lies, and all deeds, mortgages, and other liens, should be recorded immediately to be available against third parties and innocent purchasers To authorize the record of a deed to realty, it must be attested by or acknowledged before, if executed out of this State, a commissioner of deeds for the State of Georgia, notary public, clerk of a court of record, or a consul, or vice-consul of the United States (the certificates of these officers under their seals being evidence of the fact). When the deed is executed out of this State before a notary public, the attestation should be under his hand and official seal. In case of acknowledgment it is better, as a matter of precaution, always to have two witnesses, besides the officer who takes the acknowledgment. If executed in this State, it must be attested by a judge of a court of record of this State, or a justice of the peace, or notary public, or clerk of the superior court, in the county in which the three last mentioned officers respectively hold their appointment, or if subsequent to its execution the deed is acknowledged in the presence of either of the named officers, that fact, certified on the deed by such officer, shall entitle it to be recorded. (Act of 1893.) Deeds to secure loans are in more common use than mortgages because they have been held to pass the absolute title and protect against year's support and dower, the equit of redemption remaining in the maker, can not be levied upon until the debt to secure which the deed has been paid off. Under the law of Georgia these deeds can not be foreclosed as mortgages, the notes they are given to secure must be sued to judgment, the land must be re-conveyed to the grantor, and then levied on, but the lien of the judgment relates back to the date of the conveyance. In the Federal courts, however, foreclosure can be made in equity as in the case of ordinary mortgages. Usury will, however, void such a conveyance.

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Depositions. Testimony is taken in this State by written interrogatories where the witness is a female, or where the witness does not reside in the county where the suit is pending, or by reason of disability is unable to attend court. In counties within this State, having a population of over 20,000, depositions may be taken upon five days' notice to the other party of the time and place at which the witness is to be examined. This latter process cannot be used for taking testimony outside of the State. In taking answers to interrogatories, which must be authorized by a commission issued for such purpose by the court here, two commissioners must act. Commissioners must be disinterested and not related to either party, or connected with the case; attorneys of the parties are incompetent. None of the parties to the case, nor their agents or attorneys, can be present when the commission is executed. The witness can only write his answer in the presence of the commissioners. It is usual, and the better practice, for one of the commissioners to write the answers of the witness as they are given. Depositions may be written with the typewriter, and commissioners may adjourn their sittings from day to day. The following instructions for taking testimony are important: Instructions for taking answers to interrogatories: 1. Insert the commissioners' names in the commission; any two respectable citizens will do. 2. State the case as you find it. Then comes the caption, thus:

State of .....) (Here insert the county and State
County of .....) ss. where the commission is executed.)

By virtue of a commission from the ..... court of ..... county, we have caused the person in said commission named to come before us, who being duly sworn true answers to make to certain interrogatories thereto annexed, deposeth and answereth as follows: (Here insert answers of the witnesses to each interrogatory in order. 3. Let the witness sign the answers; then say: "Answered, sworn to, and subscribed before us, this .... day of ....., 19...." Then sign your own names, adding the words "Commissioner (L. S.)" after each name. 4. Seal all up together, using two wafers, each commissioner writing his name with "Commissioner" across a wafer or seal. 5. State the case on the package, and address it to the clerk of the court issuing the commission. 6. If it is to go by mail, get the postmaster to receipt on the package. "Received from one of the commissioners (giving his name) the within interrogatories, to be forwarded by due course of mail," naming his post-office. Testimony thus taken must be sent by mail, or by some person specially authorized by the commissioner to carry it to the court.

Descent and Distribution of Property. The husband is the sole heir to his intestate wife, unless she leave children, and in that event the husband and children shall inherit per capita, but the descendants of children shall take per stirpe. If a man die without children, or the descendants of children, leaving a wife, the wife is his sole heir. If there are children, or those representing deceased children, the wife shall take a child's part, unless the shares exceed five in number, in which case the wife shall have one-fifth part of the estate. If the wife elects to take her dower, she has no further interest in the estate. Children stand in the first degree to the intestate, and inherit equally. Posthumous children stand upon the same footing with other children. Lineal descendants of children stand in the place of their deceased parents, and take per stirpe, and not per capita. Brothers and sisters stand in the second degree and inherit if there be no widow or children, or representatives of children. The half-blood on the paternal side inherit equally with the whole blood. The father, if living, inherits equally with brothers and sisters, and stands in the same degree. If there be no father, and the mother is alive, she shall inherit in the same manner as the father would. Real estate descends direct to the heirs, and personal estate to the administrator. But real estate is subject to administration for the purpose of paying debts, and if necessary, for distribution.

Dower. In this State the wife is entitled to an estate for life in one-third of all lands of which the husband dies seized or possessed at the time of his death, or to which the husband obtained title in right of his wife. There is no necessity for renunciation of dower in this State, and a married woman, on that question, need not join with her husband in conveying land, except in cases where, before 1866, he obtained real estate belonging to his wife, by virtue of the marital relation.

Executions. Must follow the judgment or decree from which they issue. They are good for seven years and may be renewed for a like period by entry nulla bona.

Exemptions and Homesteads. Under the constitution and laws of Georgia, each head of a family or guardian, or trustee of a family of minor children, or of an aged or infirm person, or a person having care and support of dependant females of any age, who is not the head of a family, shall have exemption of realty, or personalty, or both, to the aggregate of $1600. The debtor shall have power to waive or renounce, in writing, his right to the benefit of exemption above stated, except as to wearing apparel and not exceeding $300 worth of household and kitchen furniture, and provisions. The homestead or exemption may be sold by the debtor and his wife, if any, 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 re-invested upon the same uses. A general waiver in writing, of the homestead, or exemption, is good.

Foreign Corporations. All corporations, except those chartered and organized under the laws of this State, are held to be foreign corporations. Such corporations are recognized by comity only; they are subject to attachment, but have all the rights of replevy and defense. They cannot exercise any corporate powers or privileges which by the constitution and laws of Georgia are denied to domestic corporations or the exercise of which would be contrary to the public policy of this State. There is otherwise no restriction upon foreign corporations except in the case of insurance companies and building and loan associations, which are required to make deposits. All corporations are subject to license fees for doing business and all are liable for taxes on property owned or held in the State. (See Corporations.)

Fraud. Contracts, awards, marriages, judgments, sales, and wills are void when they are brought about and procured by fraud. Promissory notes when procured by fraud are void in the hands of the holder, who so procures them. The statute of frauds, as of force in Georgia, requires the following obligations to be in writing, signed by the party, or his authorized agent, to be binding: 1. A promise by an executor, administrator, guardian, or trustee, to answer in damages out of his own estate. 2. A promise to answer for the debt, default, or miscarriage of another. 3. An agreement made upon consideration of marriage, except marriage articles as otherwise provided. 4. Any contract for the sale of lands, or any interest in or concerning them. 5. Any agreement that is not to be performed in a year. 6. A promise to revive a debt barred by statute of limitations or bankruptcy. 7. Any contract for the sale of goods, wares, and merchandise, in existence or not in esse, to the amount of $50 or more, except the buyer shall accept part of the goods sold and actually receive the same or give something in earnest to bind the bargain or in part payment. 8. An acceptance of a bill of exchange.

Garnishments. This process may be invoked in any case. Garnishment may be dissolved by giving bond and a third party may claim a fund held up under garnishment and may release the fund by giving bond. Wages of laborers, journeymen and mechanics, are exempt from process of garnishment.

Interest. The legal rate of interest in Georgia is 7 per cent, but is legal when contracted for in writing. Parties charging usury forfeit the excess if usury is set up. And usury will render a deed void, and will in a contract or mortgage render a waiver of homestead, or contract to pay attorneys' fees void.

Judgments create liens from their rendition upon the real or personal property of the defendant; all judgments at the same term rank equally, and property sold by a debtor after judgment is obtained against him is only discharged from the lien of such judgment, if real estate, after four years' possession by the vendee, and in cases of personal property, after two years' Judgments, whether in the United States court, or in any State court, obtained in any other county than that in which the defendant resides have no lien on the property of the defendant in any other county, unless the execution thereon is recorded in the county of the defendant's residence. Unless such execution is recorded as so required within thirty days, its lien will only date from the time of record. (See Actions.)

Jurisdiction. (See Title Courts.)

License. No license is required of commercial travelers. Itinerant traders must pay license fees.

Liens. Under the laws of Georgia mechanics, material-men, machinists, employes of steamboats, millwrights, builders of gold mine machines, stone-cutters, and marble works laborers have special liens on property improved or worked on. Landlords have a general lien which takes effect from the levy of distress and a special lien on crops for rent of land on which they are raised. Common law liens of innkeepers, factors, pawnees, carriers, attorneys and others are recognized. Vendor's lien on land has been abolished. Attorneys have a special lien on papers in their hands and on property recovered in suits brought by them or successfully defended by them.

Limitations. Suits on open accounts are barred after four years, on promissory notes and bills after six years, on instruments under seal after twenty years, on suits for personal injury after two years. Seven years' adverse possession of real estate under color of title, and twenty years' adverse possession without color of title, will bar the claims of all persons not laboring under disability. Infants have seven years to assert their rights, after becoming twenty-one years of age.

Married Women. The wife may contract and sue and be sued in her own name in respect to her separate estate as a femme sole, except that she can not bind her separate estate by suretyship for her husband, and any promise to pay her husband's debt is void. She cannot sell to her husband or trustee for any purpose, except by order of the superior court. A wife or her heirs may sue and recover from any person money or property used by her husband to pay his debt where the creditor takes with notice. All the property of the wife at the time of marriage, and all she may acquire by gift, inheritance, or purchase, shall vest in and belong to her, and shall not be liable for the debt, default, or contract of her husband. The wife with her children, if any, is entitled to twelve months' support out of the estate of her deceased husband. The husband is bound to support and maintain the wife, and his consent is presumed to her agency in the purchase of necessaries. The wife's separate property is not liable for debts contracted by her as agent of her husband in the ordinary support of herself and children, but by special contract in her own capacity, and not as agent for her husband, she could bind her separate estate, for that purpose. A married woman can dispose of her property by will.

Mortgages. Mortgages are only security for debts. They may embrace property in the mortgagor's possession, or to which he has a right of possession. They may cover a stock in bulk, but changing in specifics, and after acquiring property. No particular form is necessary, but it must be clear that the instrument indicates a lien, describes the property and specifies the debt it secures. Mortgages on land are not good against dower, and a wife cannot waive her dower as against this lien. Mortgages must be executed and attested in the same manner as deeds, except that in mortgages on personal property, only the official witness is necessary. Mortgages with power of sale are valid in Georgia. Homestead and exemption may be waived in the mortgage. All mortgages on personal property must be recorded in the county where the mortgagor resides and the property is located. Mortgages on land must be recorded in the county where the land is situated.

Notaries. Commercial notaries, male or female, are appointed for four years by the superior courts. They must have seals and are authorized to attest deeds and mortgages, and make protest of commercial paper.

Notes and Bills of Exchange. (See Bills of Lading and Promissory Notes.) Promissory notes are negotiable by endorsement of payee, or holder, notes payable to bearer are transferable by delivery only Bonds, specialties, contracts, bills of lading, and warehouse receipts, are negotiable by endorsement or written assignment in the same manner as bills of exchange and promissory notes. Endorsements may be limited by express restrictions. Acceptances of bills must be in writing. Transferers of negotiable instruments warrant that they are the lawful holders, have the right to sell, and that the instrument is genuine. Bona fide purchasers of negotiable paper taking the same for value before due, and without notice, are protected against any defense, except: 1. Non est factum. 2. Gambling, or immoral or illegal consideration. 3. Fraud in its procurement by the holder. Maturity gives notice of dishonor. No days of grace are allowed.

Probate Law. (See Administration of Estates, Deeds and Mortgages.)

Protests. (See Bills of Lading and Promissory Notes.)

Records. (See Deeds and Mortgages.)

Redemption. There is no redemption in this State under judicial sales except in case of sale of property under tax execution where parties may redeem in twelve months.

Replevy. All property seized under attachment, distress, or other similar process, may be replevied. Property seized under process and claimed by the third party may be delivered over upon bond and security for its forthcoming to answer final judgment of decree.

Revision. (See Courts.)

Sales. Sales may be made to pay debts, but any sale of stocks of goods in bulk is deemed fraudulent unless the seller delivers to the buyer a list of all creditors and the amount due each. It shall then be the duty of the buyer to notify the creditors of his purchase. This notice must be mailed five days before completion of the purchase.

Taxes. Taxes are a lien upon all the property of the debtor, real or personal, and its lien is preferred as stated in section herein relating to distribution of the estates. Sales of property for taxes are conducted in the same manner as other judicial sales. One year in which to redeem is allowed.

Wills. All persons of full age and sound and disposing memory, including married women, may make wills, and dispose of their estates. Wills must be executed in the presence of three witnesses, all of whom shall be present, must be called by the testator as witnesses, and must sign, and shall certify that they signed, in the presence of the testator, and in the presence of each other. Wills must be in writing, except nuncupative wills. Wills of citizens of other States, where executed according to the laws of the State, and probated in solemn form in such State, which dispose of real or personal property in Georgia, may be

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admitted to probate in this State, when an authenticated copy of the will is presented, accompanied by a certificate of the governor of such State, under the seal of the State, that the official of the court where such probate was made, had original jurisdiction of the subject-matter. Wills are probated in the court of ordinary in the county where the testator resides at the date of his death. All wills executed out of this State by citizens of this State to dispose of property in Georgia must be executed according to our law. A foreign will, executed according to the law of Georgia, will constitute a muniment of title to real property without being probated in this State, when recorded on the record of deeds in the county where the land lies, together with an exemplification of record admitting it to probate in another State, certified according to the Act of Congress.

SYNOPSIS OF

THE LAWS OF IDAHO

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by RICHARDS & HAGA, Attorneys at Law, Boise. (See Card in Attorneys' List.)

Acknowledgments. All conveyances and other instruments required to be acknowledged in this State must be acknowledged, if within the State, before a judge or clerk of a court of record, a county recorder, a notary public, or a justice of the peace. If without the State, but within the United States, they must be acknowledged before any such officer, or a commissioner of deeds for this State, or before any officer authorized by the laws of this State or Territory to take such acknowledgment. If without the United States, they must be acknowledged before a minister or charge d'affairs of the United States, resident and accredited in the country where the acknowledgment is taken, before a consul or vice-consul, a judge of a court of record, a duly appointed commissioner, or a notary public. The certificate of acknowledgment, if made before a justice of the peace, when used in any county other than that in which he resides, must be accompanied by a certificate, under the hand and seal of the recorder of the county in which the justice resides, setting forth that such justice, at the time of taking such acknowledgment, was authorized to take the same, and that the recorder is acquainted with his handwriting, and believes that the signature is genuine. Proof of the execution of an instrument may be made though it has not been acknowledged. Form of married woman's acknowledgment the same as that of a single person. (See Conveyances.)

Actions. There is but one form of civil action in this State. An action is commenced within the meaning of the statute when the complaint is filed with the clerk. Every action must be prosecuted in the name of the real party in interest.

Affidavits are used only to verify pleadings, to prove service of summons, notice, or other paper, to obtain provisional remedy.

Aliens. Code provisions as to holding property by aliens have been repealed (Sess. Laws, 1913).

Arbitration. Persons capable of contracting may submit to arbitration any controversy which might be the subject of a civil action between them, except a question of title to real property in fee or for life.

Arrests. The defendant may be arrested in a case for the recovery of money or damages on a cause of action arising upon a contract, express or implied, when the defendant is about to depart from the State with intent to defraud his creditors; also for money or porperty embezzled or fraudulently misplaced by a public officer or any person in a fiduciary capacity, or when the defendant has been guilty of fraud in contracting the debt, or in concealing or disposing of personal property, for the taking or conversion of which the action is brought; or when the defendant has or is about to remove or dispose of his property with intent to defraud his creditors.

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 creditors' meeting, held after thirty days' notice given, one assignee is appointed, and claims proved. Court will be 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 neugatory by act of defendant. Assignee 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. 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 State with intent to defraud, or when the debt or obligation was fraudulently contracted.

Banks and Banking. Idaho has a full and complete law upon the formation and regulation of banks and the formation of banking corporations. No banking corporation can have less than five directors. All banks, other than national banks, are under the supervision of the bank commissioner. The banker has a general lien, dependent upon possession, upon all property in his hands belonging to a customer for the balance due him from such customer in the course of the business. (Sess. Laws 1911 amended 1913.)

Blue Sky Law. Idaho has a blue sky law governing corporations, unincorporated associations and partnerships, domestic or foreign, dealing in stocks, bonds, and other securities, excepting United States bonds, State or municipal securities in Idaho, and Idaho real estate mortgages. This law requires the filing of various statements, accounts and other papers, and makes it unlawful to do business in the State without compliance. (Sess. Laws 1913.)

Collaterals. No statutory regulation.

Community Property. All property acquired after marriage other than by gift, bequest, devise, or descent, is community property. The personal earnings of the wife and the income from her separate property are her separate property.

Contracts. A written instrument is presumptive evidence of a consideration.

Conveyances. Real estate is conveyed by instrument in writing, subscribed by the party or his authorized agent in writing. The community property can be conveyed only by both husband and wife joining in the execution. During the continuance of the marriage the wife has the management, control, and absolute power of disposition of her separate property, and may bargain, sell, and convey her real and personal property, and may enter into any contract with reference to the same, in the same manner and to the same extent and with like effect as a married man may in relation to his real and personal property. An instrument purporting to grant real property to take effect upon condition precedent, does not pass the estate upon the performance of the condition. Such instrument is merely an executory contract. (See Acknowledgments.)

Corporations. Private corporations may be formed by three (3) or more persons, at least one of whom must be a bona fide resident of this State. Such corporation is formed by executing articles of incorporation, containing: 1. The name of the corporation 2. The purpose for which it is formed. 3. The place where its principal business is to be transacted. 4. The term for which it is to exist (not exceeding fifty years). 5. The number of its directors or trustees, not exceeding fifteen, who must be stockholders of the corporation. 6. The amount of the capital stock and the number of shares into which it is divided. 7. The amount actually subscribed, and by whom. The articles may provide for the election of one-third of its directors annually. Railroad, wagon road, telegraph and telephone corporations must also state in their articles: 1. The kind of road, telegraph or telephone line intended to be constructed. 2. The estimated length of the road or line. 3. They may provide in their articles the number of directors which shall constitute a quorum for the transaction of business, the decision of the majority of such quorum to be a valid act. 4. Whether meetings of the board shall be held within or without the State. 5. Whether stockholders shall be individually liable for debts of corporation. Railroad corporations must have subscribed, before filing articles, $1,000 per mile; wagon road corporations, $300 per mile; telegraph corporations, $100 per mile, and the articles must be verified by affidavit of president, secretary, or treasurer named in articles, that such stock has been subscribed. All articles of incorporation must be filed in the office of the county recorder, in which the principal place of business is located, and a copy thereof certified by the recorder, filed with the Secretary of state. All corporations, except insurance, non-productive mining companies, co-operative telephone and irrigation companies, must pay between July 1st and September 1st of each year, a license fee based on the amount of authorized capital stock, varying from $10 to $150; a failure to make payment by September 1st entails a penalty of $10, and a failure to make payment by November 30th entails a loss of charter for domestic corporations and a loss of the right to do business within the State for foreign corporations. Between July 1st and September 1st, all corporations must make an annual report, and a failure to do so takes away such exemptions as are mentioned above.

Corporation, Foreign. Foreign corporations desiring to do business in this State, may have all the rights and privileges of like domestic corporations, by filing with the secretary of state, and in the office of the clerk of the district court in the county where the principal place of business of such corporation is to be conducted, a copy of their articles of incorporation, and the designation of some person residing in the county in which such principal place of business is to be located upon whom process issued by authority of or under any law of this State may be served.

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; and he may hold such special terms as he deems proper and necessary. District courts have original jurisdiction in all civil cases. Probate courts are held in each county continuously, and have jurisdiction up to $500, in civil cases, and concurrent jurisdiction with justice's courts in all criminal cases. Justices' jurisdiction, $300.

Days of Grace abolished by 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, or they may be taken upon commission issued by the judge with interrogatories attached.

Devolution of Property. (See Succession.)

Dower does not exist.

Employers and Employes. All persons employing mechanics or laborers in working mines, erecting or repairing buildings, constructing canals, railroads, etc., must make, record, and publish a statement, under oath, setting forth the following: The name of the owner of the premises where work is being done or upon which it is intended to begin work; the name of the person or company engaged in or who contemplates engaging in work upon such premises; the conditions under which such person or corporation is prosecuting the work as agent, owner, etc., the principal office of the owner and the agent in this State; the time and place where payment of laborers and mechanics will be made. A copy of this statement must be posted at the place where work is prosecuted.

Employer's Liability Law. Provides for damages not to exceed $5,000 for injuries to employee caused by employer's negligence.

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

Exemptions. Homestead, not exceeding $5,000, if declaration of homestead is duly acknowledged and recorded; office furniture and library, $200; necessary household and kitchen furniture not exceeding in value $300, and provisions for family for six months; certain farm animals, etc., with food for six months; and water right for 160 inches, when actually used in irrigation; also crops growing or grown on fifty acres of land, leased, owned or possessed by the person cultivating the same; tools or implements of mechanic necessary for his trade of the value of $500; all instruments of surgeons, etc., also call professional libraries miner's dwelling of value $500, and his pipes, cars, etc., of the value of $200; pack animals and equipments, not exceeding $250; team, wagon, etc., of drayman; the personal

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earnings of a debtor within thirty days preceding levy, where earnings are necessary for use of family, residing in this State; the shares held by parties of the Building and Loan Association to the value of $1,000; provided, such person has no homestead; all benefits arising out of life insurance, represented by an annual premium of $250; all property of fire companies. All the above property may be sold under foreclosure of mortgage, which includes same.

Garnishment. Any personal property or credits in the hands of another, belonging to the defendant, is subject to garnishment, as are debts owing to him from another if due.

Guaranty, Title and Trust Co. May furnish abstracts, act as surety, trustee, fiscal agent. Paid up capital of $25,000 required. Capital deemed security for the performance of their duties.

Husband and Wife. All the property of the wife owned by her before marriage, and that acquired afterwards by gift, bequest, or descent, or that which she shall acquire with the proceeds of her separate property and her personal earnings and the income from her separate property, shall remain her sole and separate property, to the same extent and with the same effect as the property of a husband similarly acquired. The wife has the management, control, and absolute power of disposition of her separate property, to the same extent and with like effect as a married man may have in relation to his real and personal property. The separate property of the wife is not liable for the debts of her husband, but is liable for her own debts contracted before or after marriage. There is no estate by courtesy or in dower. Marriage settlements are provided for, and when properly executed and recorded may vary the statute governing the relations of husband and wife concerning property rights. Minors may execute valid marriage settlements.

Interest. Where there is no express contract in writing fixing a definite rate of interest, the rate is 7 per cent per annum. Parties may agree in writing for interest at the rate of 12 per cent per annum. Judgments bear interest at the rate of 7 per cent per annum.

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 five years. Justice's court judgments become liens when certified and recorded. May be revived by issuing execution within limitation.

Liens, Mechanics. Every person performing labor upon [or furnishing materials used in the construction or repair of any mining claim, building, or other improvement, has a lien thereon Farm laborers have lien upon the crop and products thereof, upon which they bestow labor. All liens must be set forth by a statement in writing, showing the amount due, the facts connected with the matter, that there are no credits due on the claim, or offsets against the same; which statement must be verified by the claimant, and recorded in the office of the county recorder, if on claim of original contractor, within ninety days, if on claim of other persons, within sixty days from the time of the completion of the structure the completion of the labor, or the furnishing of the materials. Lien must be enforced by suit within six months, unless credit is given, expires at all events in two years.

Limitation to Suits. Contracts not in writing and open accounts, 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, and her personal earnings and the income from her separate property are the 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.

Mines and Mining. (Principal regulations under United States Statutes.) Quartz locations may be 1,500 feet long and 300 feet on each side of the middle of lode. Monuments must be established at all exterior angles of claim. Claim should be tied to some natural or permanent monument. Copy of location notice must be posted at discovery within three days after discovery. Notice of location must be recorded within ninety days after location; within sixty days ten-foot shaft must be sunk or its equivalent. Location notice must contain name of locator, name of claim, date of discovery, dimensions, distance from some permanent, natural, or artificial object; name of mining district, county, and state. Placer locations made in same manner as quartz locations, except that within fifteen days after making location, locator must excavate not less than 100 cubic feet for purpose of prospecting claim, and must record notice of location within thirty days after making location.

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. Mortgages are discharged by a satisfaction duly executed and recorded, or by entry on margin of the record, witnessed by recorder.

Negotiable Instruments. Negotiable instruments are governed by the rules of the Uniform Negotiable Instrument Law, as recommended by the American Bar Association. (See Laws 1903, p. 380.)

Notaries, when requested, to demand acceptance and payment of foreign, domestic, and inland bills of exchange or promissory notes and protest the same for non-acceptance and non-payment; exercise such other powers and duties as by the law of nations and commercial usage, or by the laws of any other Territory, State, government, or country may be performed by notaries. Attach acknowledgments or proof of powers of attorney; mortgages, deeds, grants, transfers, and other instruments of writing executed by any person. Give certificate of such proof or acknowledgment, to take depositions, affidavits, and administer oaths and affirmations in all matters incident to duties of the office. To keep a record of all official acts; when requested, and upon payment of his fees therefore, to make and give a certified copy of any record in his office; to provide and keep an official seal, on which must be engraved his name, the words "Notary Public," and the name of the county for which he is commissioned. To authenticate with his official seal all official acts. The commission is good throughout the State.

Power of Attorney. Powers of attorney for grants of real estate and to execute a mortgage must be in writing, subscribed, acknowledged or proved, certified and recorded as other instruments affecting real property. Powers of attorney which have been recorded must be revoked by revocation in writing, acknowledged, proved, certified, and recorded the same as original power.

Probate Law. Probate courts have jurisdiction to open and receive proof of wills and admit them to proof; to grant letters testamentary and guardianship and revoke same; appoint appraisers of estates, compel executors, etc., to render accounts; order sale of property of estates and minors; order payment of debts due from estates, order and regulate distribution of property or estates; compel attendance of witnesses and production of all instruments pertaining to estates and property of minors, and make such orders as may be necessary to exercise all powers conferred. Proceedings of this court are construed the same as courts of general jurisdiction and like force given to its records.

Protest. (See Notaries.)

Records. All deeds, mortgages, real and chattel, and instruments affecting the title to lands must be recorded. Inventory of the separate personal estate of a married woman when recorded, becomes prima facie evidence that the property therein enumerated is her separate property. Judgment empowering a married woman to act as a sole trader must be recorded in the county recorder's office. In case of levy of attachment upon real estate, a copy of the writ, with a copy of the notice of levy attached thereto, must be filed in the office of the county recorder.

Redemption. Property may be redeemed within one year after sale, on paying purchaser amount paid on sale and 10 per cent additional. Property may be redeemed by successive redemptioners within sixty days from last redemption, and within one year from sale, by paying an additional 4 per cent. In cases of tax sales, the owner may redeem in three years.

Replevin. Action of, must be brought within three years from time it accrues. Plaintiff may sue for the possession without claiming immediate possession, or he may claim immediate possession at time of commencing suit or afterward. Affidavit showing that plaintiff is the owner, the detention, the unlawfulness of the detention, etc., and bond with sureties required to obtain immediate possession. Defendant may execute undertaking, with approved sureties, for the retention of the property, and that it will be forthcoming, subject to the order of the court in which the action is pending, and thereupon retain the possession of the property involved.

Seals. The distinctions between sealed and unsealed instruments are abolished.

Succession to Property. If decedent leave spouse and one child each entitled to one-half of decedent's separate property, both real and personal; if more than one child, surviving spouse gets one-third and remainder in equal shares to surviving children. In the case of community property, the surviving spouse takes all the property in event there are no children; but if children also survive, the surviving spouse takes only one-half of the community property and the children take the other one-half.

Taxes. The locus of property for taxation relates to the second Monday of January, if within the State, and if not to the day of assessment, and is a lien from and after that date. If one half of taxes be paid by first Monday of January the remaining half may be paid by first Monday of July, following. Six per cent penalty added for delinquency and delinquency certificate bears interest at 12 per cent from date of delinquency. The owner has two years from the date of said certificate to redeem therefrom, and if he does not redeem the county or the assignee of the certificate must bring suit not less than thirty days nor more than ninety days after the expiration of said two years to foreclose the tax lien. Proceedings are the same as on foreclosure of mortgage, and owner is allowed one year from the sale in which to redeem before the sheriff's deed can be given."

Trust Companies. (See Guaranty Companies.)

Ware House Receipts The Uniform Warehouse Receipts Act, recommended by the American Bar Association.

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. One-half of community property may be disposed of by will.

SYNOPSIS OF

THE LAWS OF ILLINOIS

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by Messrs. MUSGRAVE, OPPENHEIM & LEE, Attorneys at Law, Chicago. (See Card in Attorneys' List.)

Acknowledgments. Of deeds of real estate and other instruments. may be taken before the following officers: Within this State before a master in chancery, notary public, United States commissioner, county clerk, justice of the peace, any court of record having a seal or any judge, justice, or clerk thereof. Without this State, and within the United States, its territories, dependencies, or the District of Columbia, before a justice of the peace, notary public, master in chancery, United States commissioner, commissioner to take acknowledgments of deeds, mayor of a city, clerk of a county, or before any judge, justice, clerk or deputy clerk of the supreme, or district court of the United States, or before any judge, justice, clerk or deputy clerk, prothonotary, surrogate, or registrar of the supreme, circuit, superior, district, county, common pleas, probate, orphans or surrogate court of any of the States, Territories, or dependencies of the justice, clerk or deputy clerk of the supreme, or district court of the United States, or before any judge, justice, clerk or deputy clerk, prothonotary, surrogate, or registrar of the supreme, circuit, superior, district, county common pleas, probate, orphans or surrogate court of any of the States, Territories, or dependencies of the United States. In any dependency of the United States, such acknowledgment or proof may also be taken or made before any commissioned officer in the military service of the United States. When such acknowledgment or proof is made before a notary public, United States. In any dependency of the United States, such acknowledgment or proof may also be taken or made before any commissioned officer in the military service of the United States. When such acknowledgment or proof is made before a notary public, United States commissioner, or commissioner of deeds, it must be certified under his seal of office. If taken before a mayor of a city, it must be certified under the seal of the city; if before a clerk, deputy clerk, prothonotary, registrar, or surrogate, under the seal of his court; if before a justice of the peace. or a master in chancery, there must be added a certificate of the proper clerk under the seal of his office, setting forth that such person was a justice of the peace or master in chancery at the time of taking such acknowledgment or proof. An acknowledgment or proof of execution may be made in conformity

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with the laws of the State, Territory, dependency, or district where it is made. Without the United States, before any court of any republic, dominion, state, kingdom, empire, colony, territory, or dependency having a seal, or before any judge, justice, or clerk thereof, or before any mayor or chief officer of any city or town having a seal, or before a notary public or commissioner of deeds, or any ambassador, minister, or secretary of legation, or consul of the United States, or vice-consul, deputy consul, commercial agent, or consular agent of the United States. The acknowledgment of a conveyance by a married woman may be made and certified as if she were single. An acknowledgment taken by any one interested in the conveyance is void.

Actions. Forms of action and pleadings are substantially as at common law except in justice courts and the municipal court of Chicago, wherein the practice has been much simplified. A non-resident is required to give a bond for costs.

Administration of Decedents' Estates. Letters testamentary issue to executor named in will, if he be a resident. If there be no will, or no executor named, or the executor is disqualified or refuses to act, administration is granted to surviving husband, or wife, next of kin, or some competent person. The surviving husband or wife, or the person nominated by him or her, has preference. If none of the above named applies within sixty days from death of deceased, then administration is granted to the public administrator of the proper county. The administrator must be a resident of the State. A foreign executor or administrator, within the United States, may prosecute suits to enforce claims or to sell lands to pay debts. The executor or administrator must file an inventory within three months from the date of his appointment and must fix upon a term of court, within six months from the time he qualifies, for the adjustment of claims, and publish notice thereof. The claimant should produce and file his verified claim, which, if not objected to, may be allowed without further evidence. If objected to, the claim is set down for trial. If the claim is not presented at the time fixed upon, it may afterwards, within one year, from the date of the issuance of letters of administration, be filed with the clerk, whereupon a summons issues against the executor or administrator, and the matter is heard at a subsequent term. All claims not exhibited within one year from granting of administration are barred. Claims are classified as follows: 1. Funeral expenses and cost of administration. 2. Widow's or children's award. 3. Expenses of last illness, other than physician's bill, and demands due household laborers or servants of deceased for labor. 4. Debts due common school or township funds. 5. Physician's bill for last illness. 6. Trust funds. 7. All other debts. Claims have priority of payment in the above order.

Affidavits. Within this State oaths and affirmations may be administered by any judge, justice of the peace, master in chancery, clerk of a court, police magistrate, or notary public, in their respective jurisdictions. Without the State the oath or affirmation may be administered by any officer authorized by the laws of the particular State, and if such officer has a seal, his certificate under his official seal is received as prime facie evidence of his authority.

Aliens. The present law went into effect July 1, 1897. It does not affect the rights of aliens as to personal property, who still take the same as citizens. Its provisions are subject to treaties made by the United States with foreign countries. All aliens, subject to certain restrictions mentioned in the act, may acquire and for a limited time hold real estate situated in this State by deed, devise, or descent, and may transfer, devise, or encumber it.

Arrest and Bail. No person can be imprisoned for debt unless upon refusal to deliver up his estate for the benefit of his creditors in such manner as shall be prescribed by law, or in cases where there is a strong presumption of fraud.

Assignments. The operation of the Illinois Act relating to voluntary assignments for the benefit of creditors has been suspended by the national bankruptcy law.

Attachments. A creditor, resident or non-resident, whose claim is due, may bring attachment in a court of record if the amount exceeds $20, and in justice court for any amount not exceeding $200, on any of the following grounds: 1. Where the debtor is a non-resident of this State. 2. Where the debtor conceals himself, or stands in defiance of an officer so that process can not be served upon him. 3. Where the debtor has departed from this State with the intention of having his effects removed from this State. 4. Where the debtor is about to depart from this State with the intention of having his effects removed from this State. 5. Where the debtor is about to remove his property from this State to the injury of such creditor. 6. Where the debtor has, within two years preceding the filing of the affidavit required, fraudulently conveyed or assigned his effects, or a part thereof, so as to hinder or delay his creditors. 7. Where the debtor has within two years prior to the filing of such affidavit fraudulently concealed or disposed of his property so as to hinder or delay his creditors. 8. Where the debtor is about fraudulently to conceal, assign, or otherwise dispose of his property or effects so as to hinder or delay his creditors. 9. Where the debt sued for was fraudulently contracted on the part of the debtor, provided the statements of the debtor, his agents or attorney, which constitute the fraud, shall have been reduced to writing, and his signature attached thereto by himself, agent, or attorney. The creditor must give bond in double the amount of the claim. Real estate or personal property may be attached or funds garnished. The property or funds may be released by the debtor giving a forthcoming bond, or entering into a recognizance in court to pay the judgment.

Banks. Under the state constitution stockholders have a double stock liability, and every bank must make, under oath, and publish each quarter a full and accurate statement of its affairs. Banks may be formed under the statute for the purpose of discount and deposit, buying and selling exchange, and doing a general banking business, except the issuing of bills to circulate as money; may loan on both personal and real estate security, and may accept and execute trusts. The stockholders at the annual meeting on the first Monday of each January (unless some other date be fixed by the by-laws) elect the directors. The directors must furnish to the State Auditor each year a list of stockholders and such other information as he may require. Each director must own ten shares of stock. Directors are required to hold monthly meetings. Any director, officer, or employee making a false statement as to the affairs of the bank, with intent to deceive, may be punished by imprisonment. No bank can begin business until the Auditor has issued his certificate that its stock has been fully paid; and such certificate has been filed with the Recorder of Deeds of the County where the bank does business. The Auditor may withhold his certificate if he be not satisfied as to the character and standing of the directors and officers. The president and cashier thirty days after organization must file with the Recorder of Deeds a certified list of stockholders and the holdings of each, and thereafter record all transfers. No transfer of stock releases stock liability. Banks are examined under the direction of the Auditor at least once each year. A bank can hold only such real estate as is necessary for its banking house, and such as may be acquired in the collection of its debts. No more than 15 per cent of the capital stock and surplus can be loaned to one person, firm, or corporation, but discounts of bills of exchange drawn against actual values, and commercial paper discounted for parties actually owning the same, do not come within this provision. A violation of this provision does not impair the claim, but renders the directors and officers assenting to the same personally liable for any loss incurred thereby. A loan can not be made to the president or any officer or employe, unless approved by the Board of Directors. The minimum amounts provided for the capital stock of banks are as follows: In cities of 5,000 or less, $25,000; up to 10,000, $50,000; up to 50,000, $100,000, and 50,000 or more, $200,000. Upon impairment of the capital stock the Auditor may require assessment of stockholders or a reduction of the capital. If he shall deem the bank is being conducted in an unsafe, fraudulent or illegal manner, he may file a bill for an injunction, dissolution and receiver, but such a bill can be maintained only in the name of the Auditor. Upon deficiency of assets, the court may require, in such a suit, that the receiver proceed against the stockholders on their stock liability. There are provisions for consolidation, change of name and voluntary dissolution. A banker is liable to fine and imprisonment if he receive a deposit after he knows the bank has become insolvent and thereby the depositor suffers loss.

Bills of Lading. The Uniform Bills of Lading Law is in force in Illinois.

Chattel Mortgages. No mortgage, trust deed, or other conveyance of personal property having the effect of a mortgage or lien, is valid against third persons, unless possession be delivered to, and remain with, the grantee; or the instrument provides for the possession of the property to remain with the grantor, and the instrument is acknowledged and recorded. The instrument must be acknowledged, in counties having a population of less than two hundred thousand, before a justice of the peace, police magistrate, a clerk or deputy clerk of a municipal court, or county judge of the county in which the mortgagor resides; in counties having a population of 200,000, or more, before a justice of the peace of the town or precinct, or if there be no justice of the peace, before the clerk or deputy clerk of the municipal court in the district where the mortgagor resides. If the mortgagor is a non-resident of the State, the mortgage may be acknowledged before any officer authorized by law to take acknowledgments of deeds. After acknowledgment the instrument must be filed for record with the recorder of the county in which the mortgagor resides when the instrument is executed, or, in case of a non-resident of the State, then in the county where the property is situated. The mortgage is a valid lien until the maturity of the entire debt or obligation, not exceeding three years from the filing of the mortgage, and may be renewed for one year. A note secured by chattel mortgage must state on its face that it is so secured, otherwise the mortgage is void. A mortgage may be released on the margin of the record, or by a release deed. A mortgage on a stock of goods permitting mortgagor to retain possession and buy and sell is void as to creditors.

Commercial Paper. (See Negotiable Instruments.)

Conditional Sales and like agreements, including, generally, leases, reserving title or lien in seller who parts with possession, are not valid in this State as to purchasers or parties acquiring liens while the property remains in the possession of the vendee or lessee.

Consignments. Agreements to sell on consignment are valid. If a commission merchant, or party selling on commission, converts the property consigned, or after demand fails to account for the proceeds, he is subject to fine and imprisonment, and liable for double the value of the property so converted.

Conveyances. See Deeds.

Corporations for pecuniary profit may be organized for any lawful purpose except banking, insurance, real estate brokerage, operation of railroads, and loaning money. The method of forming a corporation is as follows: From three to seven persons execute and acknowledge a statement giving the name of proposed corporation, the object, its capital stock, number of shares (each not to be less than $10 nor more than $100), location of principal office, and duration (not exceeding ninety-nine years); which statement is filed with the Secretary of State. Upon the filing of the statement the Secretary requires the payment of the license fee, which is $30 for all companies, having a capital stock of $2,500 and under, $50 for amounts between $2,500 and $5,000, and $1.00 additional for each $1,000 of capital stock in excess of $5,000. Upon receiving the license to organize, subscriptions are obtained, and after the entire stock is subscribed, the commissioners call a meeting of the subscribers, ten days' written notice being required, to elect directors. In all elections of directors the right of cumulative voting is reserved. Voting may be by proxy. A director need not be a stockholder, nor a resident of the State. The commissioners then make a full report of the proceedings to the Secretary of State, verified by a majority of the commissioners, and include a copy of the notice for the first meeting of stockholders, a copy of the subscription list, a statement of the amount of the capital, not less than one-half actually paid in, the amount of such capital not paid in, what disposition has been made of stock subscribed and not paid, and if any proportion of the capital has been paid in property, the same shall be appraised by said commissioners, and they shall report fair cash value thereof, and the names of directors or managers elected and their respective terms of office. The Secretary of State thereupon issues a final certificate of incorporation, to which is attached copies of all papers filed with him. This certificate must be filed with the Recorder of Deeds in the county of the principal office of the Company. The Company is then fully organized and may proceed to business.

Corporations can hold only such real estate as is required for their business. They cannot hold stock of other corporations, but they may buy and sell their own stock if they act in good faith.

Stock may be attached or taken on execution; but where it has been sold or pledged in good faith and the certificate delivered, it is not liable to execution except as to any excess over the amount for which it has been pledged. Each stockholder is liable for the debts of the corporation only to the extent of the amount that remains unpaid upon the stock held by him. No assignor of stock is released from this liability by the assignment, but he remains, jointly liable with the assignee. A purchaser in good faith, without notice, of stock issued as fully paid is protected. Stock may be paid for in property other than money, but the property can be taken only at its fair cash market value. No person holding stock as collateral security can be subjected to a stockholder's liability. The pledgor has a right to vote the stock. If the indebtedness of a corporation exceeds its capital stock, the directors and officers assenting thereto are personally liable to creditors for such excess. Every stockholder has the right at all reasonable times, by himself or attorney, to examine the books and records of the company. A corporation organized for the purpose of accepting and executing trusts may be appointed assignee or trustee by deed, and executor, guardian, or trustee by will, and any court may appoint such company receiver, assignee, guardian, conservator, executor, administrator, or other trustee, provided such appointment apply to the estate only, and not to the person. Corporations are taxed on their tangible property, real and personal, within the State, and also upon the fair cash value of their capital stock, including franchises, over and above the assessed value of their tangible property. Shares of stock of domestic corporations, whose tangible property or capital stock is taxed, are not subject to taxation in the hands of owners.

Foreign Corporations doing business in this State are subject to all the liabilities, restrictions, and duties imposed on domestic corporations of like character, and have no other or greater powers. But a foreign corporation authorized by its charter to invest and loan money may do so here. This does not include, however, banking powers and privileges. An Act requires a foreign corporation desiring to do business in Illinois to make application to the Secretary of State.

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signed and sworn to by the President and Secretary, stating what business such corporation proposes to pursue under its charter, the amount of capital stock, whether it is transacting or it intends to transact business in any other state or country, the proportion of its business intended to be carried on in Illinois, the amount paid in upon its capital stock, what property and assets, and an estimate of the value thereof, will be employed in the business in Illinois, if any of its capital subscribed has not been paid in, what disposition is to be made thereof, the names of the President, Secretary, and Directors, and their residences, where its principal office in Illinois will be located and the name and address of some attorney in fact upon whom service can be had in all suits commenced in this State; and, if required by the Secretary of State, the names and residences of all stockholders as shown by its records. It must file with the Secretary of State a copy of its charter or articles of incorporation. Before any foreign corporation shall be authorized to do business in this State it must pay to the Secretary of State upon the proportion of its stock represented by its property and business in Illinois, fees equal to those required of similar corporations formed under the laws of this State. Every such foreign corporation neglecting to comply with this law is subject to a penalty of not less than $1,000 and not exceeding $10,000, to be recovered before any court of competent jurisdiction, and in addition to such penalty if any such foreign corporation shall fail to comply with the law it can maintain no suit either at law or in equity upon any claim, legal or equitable, whether arising out of contract or tort, in any court of this State.

Courts. Supreme court (seven judges); four appellate courts (intermediate court of appeals, three judges each); circuit courts (in Cook County also superior court of equal jurisdiction); criminal courts; county courts (which also exercise probate jurisdiction in counties having less than 70,000); probate courts (in counties having over 70,000); municipal courts (Chicago has a municipal court with a chief justice and twenty-five associate judges and special practice), and justice courts.

Days of Grace are abolished. (See Negotiable Instruments.)

Deeds conveying land should be signed, sealed, and acknowledged by grantor. Scrawl seal is sufficient. No subscribing witnesses are required. Statutory forms of warranty and quit claim deeds and mortgages are provided. The words employed are (1) conveys and warrants, (2) conveys and quit claims, (3) mortgages and warrants. No deed releases the right of homestead unless it contains a clause substantially as follows: "Hereby releasing and waiving all rights under and by virtue of the homestead exemption laws of the State of Illinois," in which case the certificate of acknowledgment should contain the clause, "including the release and waiver of the right of homestead." To release dower the husband or wife must join in the conveyance, except in the case of a mortgage for purchase money; otherwise the husband and wife may convey as unmarried. Deeds and other instruments affecting real estate should be recorded in the county where the real estate is situated; until so recorded they are void as to creditors and subsequent purchasers without notice.

Depositions. In chancery cases if the witness resides in the county, depositions may be taken on five days' notice; otherwise on ten days' notice and one day in addition for every fifty miles. At law, on like ten days' notice, where the witness resides in another county or is about to depart from the state. Where the witness resides out of the county or state, the deposition may be taken before a notary public or commissioner on a commission issued on ten days' notice, either on written or oral interrogatories; one day additional notice of the time and place of taking the deposition being required for each one hundred miles. The attendance of a witness can not be compelled before a notary public or commissioner in this State under a commission issued from a court of record in another state.

Descent and Distribution. Property in this State, real and personal, of residents or non-residents dying intestate, descends and is distributed as follows: 1. To the children and their descendants equally, the descendants of a deceased child or grandchild taking the share of their parents in equal parts. 2. When there is no child, nor descendant of a child, and no widow or surviving husband, then to the parents, brothers, and sisters and their descendants equally, allowing to the parents, if living, a child's part, or the survivor a double portion; and if there is no parent living, then to the brothers and sisters and their descendants. 3. When there is a widow or surviving husband, and no child or descendant of a child, one half of the real estate and the whole of the personal estate goes to the widow or surviving husband absolutely, and the other half of the real estate descends as in other cases where there are no children or descendants of children. 4. When there is a widow or surviving husband, and also a child or descendants of a child, the widow or surviving husband receives one-third of the personal estate absolutely (see Dower and Curtesy). 5. If there is no child or descendant of a child, and no parent, brother, or sister, or descendant of parent, brother, or sister, and no widow or surviving husband, the estate descends in equal parts to the next of kin in equal degree (computing by the Civil Law), there being no representation among collaterals, except with descendants of brothers and sisters, and no distinction being made between kindred of the whole and the half blood. 6. In case of a widow or surviving husband, and no kindred, the whole estate goes to the widow or surviving husband.

Dower. A surviving husband has dower (i. e., life interest in a third part of all lands whereof deceased was seized of an estate of inheritance during marriage) the same as a widow. Equitable estates, and land contracted for before death, are subject to dower. Dower may be barred by jointure assented to; by devise, unless widow or surviving husband renounces benefit of devise within one year from date of letters of administration; by divorce as to the party in fault; and by abandonment coupled with adultery. There is no dower in land as against a purchase-money lien. The husband or wife may renounce any devise under the will of the other and take, if there be children, dower and one-third of personal estate, or, if no children, one-half of both real and personal estate absolutely.

Executions. (See Judgments and Executions.)

Executors and Administrators. (See Administration.)

Exemptions. There is a homestead exemption to the extent of $1,000. It may be extinguished by conveyance joined in by husband and wife properly acknowledged. (See Deeds.) The following personal property is exempt: 1. The necessary wearing apparel, Bibles, school books, and family pictures. 2. One hundred dollars worth of other property, to be selected by the debtor, and in addition, when the debtor is the head of a family and resides with the same, $300 worth of other property, to be selected by the debtor. Exemptions can not be claimed out of partnership property. The wages of a wage earner being the head of a family and residing with the same are exempt from garnishment to the amount of $15 per week.

Frauds, Statute of. The following contracts should be in writing: 1. A promise of an executor or administrator to answer any debt or damages out of his own estate. 2. A promise to answer for the debt, default, or miscarriage of another. 3. An agreement made in consideration of marriage. 4. An agreement not to be performed within one year. 5. Any contract for the sale of lands, or any interest therein for a longer term than one year. 6. Express trusts relating to real estate.

Garnishment. The funds or property of a debtor in the possession of a third party may be garnished in an attachment suit, or in a separate proceeding after judgment has been obtained against the principal debtor. (See Attachments.)

Holidays, Legal. January 1st, February 12th, February 22d, May 30th, July 4th, October 12th, December 25th, first Monday in September (Labor Day), Thanksgiving Day, and election days; also every Saturday from 12 o'clock noon to 12 o'clock midnight. Where holidays fall on Sunday, the day following.

Husband and Wife. (See Married Women.)

Interest. Extreme contract rate, 7 per cent; legal rate, 5 per cent. Interest is allowed at the legal rate on moneys after they become due on any bond, bill, promissory note, or other instrument in writing; on money loaned or advanced for the use of another; on money due on the settlement of an account, from the date of ascertaining the balance; on money received to the use of another, and retained without the owner's knowledge; and on money withheld by an unreasonable and vexatious delay of payment. Judgments or decrees draw interest at 5 per cent. Penalty for contracting for more than 7 per cent is the loss of the entire interest, and only the principal sum can be recovered. A written contract, wherever payable, made in this State between citizens of this State and of a foreign State (or secured by a mortgage on lands in this State) is controlled by the law of this State as to the rate of interest, and the penalty for usury. Usury must be specially pleaded. But corporations cannot claim a forfeiture of legal interest on account of usury. In all computations of time, and of interest and discounts, a month is considered to mean a calendar month, and a year twelve calendar months, and a day the thirtieth part of a month. A foreign corporation is subject to the same penalties for usury as a citizen of this State.

Judgments and Executions. A judgment is a lien on real estate situated in the county where the judgment is rendered, for seven years from its date. If an execution is not issued on a judgment within one year the judgment ceases to be a lien. A transcript of a judgment in another county may be filed and thereupon becomes a lien upon real estate of the defendant in the county where filed, and execution may issue thereunder. An execution becomes a lien on personal property from the time it is delivered to the officer to be executed. All goods and chattels, including money and stock in a corporation, may be levied on. Personal property may be sold under execution on ten days' notice. A forthcoming bond may be given by the defendant to the officer. A third party claiming the property levied on may have a trial as to the right of property in the county court. Judgments may be confessed by a debtor or his authorized attorney without process in term time or vacation.

Liens. A landlord has a lien for rent upon crops growing on the demised premises. Hotel, inn, and boarding-house keepers have a lien upon baggage and other valuables of guests. Stable-keepers have a lien upon horses, carriages, and harness for the keeping thereof. Agisters and persons keeping, yarding, and feeding domestic animals have a lien therefor. All persons furnishing supplies, or doing work for any railroad organized under the laws of this State, necessary for the construction, maintenance, operation, or repair of the road, have a lien therefor on all the property of the company, which is good as against mortgages and other liens acquired after the commencement of the delivery of supplies, or the doing of the work. Attorneys have liens on all demands, claims, and causes of action of their clients, after the service of notice upon the adverse party. Contractors and sub-contractors, including architects, superintendents, timekeepers, etc., have liens on any real estate, interest therein, or improvements thereon, for all kinds of labor and services performed, and materials furnished for the erection of any building, or the improvement of any real estate, or thing connected therewith.

Limitations. In personal actions as follows: Libel and slander, one year; actions for damages for injury to persons, two years (where death results, one year after death); for false imprisonment, malicious prosecution, for a statutory penalty, for abduction, seduction, or criminal conversation, two years; actions on unwritten contracts, express or implied, on awards of arbitration, to recover damages for injury to property real or personal, to recover possession of personal property, or damages for the detention of conversion thereof, and all civil actions not otherwise provided for, five years; actions on bonds, promissory notes, bills of exchange, written leases, written contracts, or other evidences of indebtedness in writing, ten years; but any payment or new promise to pay in writing renews the right of action on such instrument for ten years from the time of such payment or promise. A domestic judgment of a court of record, twenty years; of a foreign court of record, five years.

Limited Partnership. There are statutory provisions as to the formation of limited partnerships, but such partnerships are not common in Illinois.

Married Women. A married woman may sue, be sued, or defend, as if she were unmarried. When the husband deserts, the wife may prosecute or defend in his name. The husband has the same right upon the desertion of the wife. The husband is not liable for the wife's torts except in cases where he would be jointly responsible if the marriage did not exist. The husband or wife is not liable for the debts of the other incurred before marriage, or for the separate debts of each after marriage, except that the husband and wife are jointly and severally liable for the expenses of the family and the education of their children. The wife may contract as if unmarried, except that she can not carry on a partnership business without the consent of her husband, unless he has abandoned her, or is insane, or confined in the penitentiary. She may receive and use her own earnings free from the interference of the husband or his creditors. Neither the husband nor the wife can recover compensation for any labor performed or services rendered for the other. She may own in her own right real and personal property obtained by descent, gift, or purchase, and manage, sell, and convey it to the same extent that the husband can property belonging to him; but no transfer of personal property between the husband and wife living together is good as against third persons, unless acknowledged and recorded as chattel mortgages are required to be. A married woman who without her fault lives apart from her husband may maintain an action for reasonable support and maintenance. The wife may insure her husband's life. She may become surety for the husband. She may execute a will, if over eighteen years of age, at which age she attains majority.

Mortgages. Real estate mortgages should be executed and acknowledged the same as deeds. The wife must join to bar dower, except in mortgages for purchase-money. Trust deeds are often preferred to mortgages because of the facility in the transfer of the security and, in case of non-resident creditors, in obtaining a release, the trustee generally being a resident. Real estate mortgages may be released upon the record or by release deed. Mortgages and trust deeds must be foreclosed by scire facias or by regular foreclosure suit in a court of chancery. In extreme cases, where the mortgaged property is clearly of less value than the debt secured and the mortgagor is insolvent, there may be a strict foreclosure which cuts off the right of redemption, in which case the mortgagee takes the property in discharge of the debt. In other cases the mortgagor has a year from the time of sale for redemption.

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Negotiable Instruments. The "Uniform Negotiable Instruments Law" adopted in New York and most of the other states is in force in Illinois, as to all commercial paper executed after July 1, 1907, with the following modifications: 1. All Promissory Notes, Bonds, Due Bills, and other instruments in writing, whereby one promises or agrees, to pay any sum of money or articles of personal property, or any sum of money in personal property, or acknowledges any sum of money or article of personal property to be due, are negotiable. Except as to Promisscry Notes payable in money due diligence must be used by the holder against the maker, if he be a resident and solvent, by suit at first term of Court after maturity, in order to hold the endorser. 2. Accommodation paper may be issued after maturity, if such was the intention of the accommodating party. 3. The addition of words of assignment or guaranty to a blank indorsement does not affect the signature as an indorsement unless otherwise expressly stated. 4. The oefenses of fraud and circumvention in the execution of negotiable paper, or that the consideration arose out of a gambling transaction prohibited by sections 130, 131, and 136 of our Criminal Code, may be asserted as against a holder in due course. 5. The fact that a depositor makes his note payable at a bank does not authorize the bank to pay it out of his funds on deposit. 6. An alteration of an instrument avoids it only when it is material or fraudulent, and made by the holder. 7. A promise in writing to accept a bill made either before or after it is drawn is deemed an actual acceptance as to the person receiving the bill on the faith thereof. 8. Section 137 of the Uniform Negotiable Instruments Law, providing that the destruction by the drawee of a bill of exchange left with him for acceptance, or his refusal to return the same within twenty-four hours after delivery to him or within such further period as the holder might allow, should be deemed an acceptance of the bill, is omitted from the Illinois act.

Probate Law. (See Administration of Estates.)

Recording Acts. In counties having a population of less than 60,000, the clerk of the circuit court is ex officio the recorder. In other counties a "recorder of deeds" is elected. As to what instruments must be recorded, see respective titles.

Replevin. The action lies for personal property wrongfully detained. The action may be brought in any county where the property is, or where any of the defendants reside or may be found. Before the execution of the writ, the plaintiff, or some one in his behalf, must give the officer a bond with sufficient security (a real estate owner of the county is generally required) in double the value of the property.

Sales in Bulk. Sales of the major part or all of a stock in trade, chattels or fixtures not in the ordinary course of business, are fraudulent and void as to creditors unless the buyer obtains from the seller an affidavit giving a list of his creditors with addresses and amounts due each, and the buyer, five days before payment, gives notice to each creditor personally or by mail of the contemplated purchase.

Taxes. All real and personal property in this State, including moneys, credits, bonds, stocks, investments, shares of stock in corporations (see Corporations), and of banks doing business in this State, is subject to taxation. Real and personal property is listed with the County Assessor and assessed between April 1st and June 1st as of April 1st. The taxes are payable on or before May 1st of the ensuing year; after which time penalties are added. There is an Inheritance Tax Law, the rates varying according to the relationship of the heir, devisee, or legatee, and the amount of the legacies, ranging from 2 per cent in the cases of widow and children, as to legacies exceeding $20,000, to 10 per cent on large amounts bequeathed to persons not related to the deceased.

Warehouse Receipts. The Uniform Warehouse Receipts Law is in force in Illinois.

Wills. Every male over twenty-one, and female over eighteen, is competent to make a will. It must be signed by the testator or by some person in his presence and by his direction, and attested in his presence at his request by at least two witnesses. The witnesses should be disinterested. A devise to a witness is void unless the will be otherwise duly attested by two witnesses exclusive of such person. Where the subscribing witnesses are dead, secondary evidence of the execution is admissible. The will is proved, after notice to heirs and legatees, in the county (or probate) court, and may be contested, in chancery, within one year after its probate. Wills or authenticated copies, affecting estate within this State, duly proved outside of this State, in accordance with the law of the State where executed, accompanied with a certificate of the proper officer of that fact, may be recorded here. Wills executed and published out of this State may be admitted to probate in any county in this State where the testator had lands or personal property upon like proof as if executed and published here, whether or not the will has been first probated in another state or county. All original wills, after being filed, must remain in the office of the county (or probate) court. Children may be disinherited.

SYNOPSIS OF

THE LAWS OF INDIANA

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by Messrs. PICKENS, MOORES, DAVIDSON AND PICKENS, Attorneys at Law, Indianapolis.
(See Card in Attorneys' List.)

Acknowledgments. All conveyances of real estate, except leases for less than three years, must be in writing, and acknowledged and recorded, or they will not bind third parties. Within the State acknowledgments may be taken before a judge or clerk of a court of record, justice of the peace, auditor recorder, notairy public, member of the general assembly, or mayor of a city, and on 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 is not attested by such official seal, it must be accompanied by the certificate of an officer of the United States, to the effect that it is duly executed according to the laws of such foreign country, and 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. Wife must join in deeds and mortgages of husband's lands in order to carry her inchoate one-third interest in husband's lands. No separate acknowledgment of wife necessary in order to convey her inchoate interest in husband's lands, although she must acknowledge. The certifying officer should state the date when his commission expires.

Actions. The distinctions between law and equity are abolished. The statute provides but one form of action. Pleadings are governed by code. Non-resident plaintiffs must give bond to secure costs.

Administration of Estates. Except in Marion County, which has a separate probate court, the circuit court has exclusive probate jurisdiction. In cases of intestacy letters are granted in following order, 1. Widow or widower. 2. Next of kin. 3. Largest resident creditor. Letters of administration shall be granted in the county, 1. Where intestate was inhabitant at time of death. 2. Where, not being inhabitant of the State, he leaves assets. Where an intestate, not being an inhabitant, shall die out of the State, leaving assets in several counties, letters may be granted in any one of the counties in which such assets may be at time of death; and the administration first lawfully granted shall extend to all of the estate. Letters cannot issue to a married woman without her husband's consent in writing. Such consent makes husband jointly liable with wife. Preference is given to foreign executor of a decedent not an inhabitant of State, if, before letters are granted in this State it appears that proper letters have been granted in another state, except there be resident creditors, legatees and heirs entitled to distribution, who are inhabitants of the State. No action shall be brought against an estate for any claim against the decedent; but the holder thereof, whether the claim be due or not, shall file a succinct and definite statement thereof in the office of the clerk of the court, setting forth all credits to which the estate is entitled, and accompanied by the affidavits of the claimant, his agent, or attorney, that the claim is just and wholly unpaid. If claim be secured by a lien, the lien shall be particularly set forth. The claim must be filed within one year from the notice of the administrator's appointment, or claimant must pay costs; and if not filed at least thirty days before the final settlement of the estate, it shall be barred, except that heirs, devisees and distributees shall be liable to the extent of the property received by them, to any unpaid creditor who six months prior to the final settlement was insane, an infant, or out of the State,—suit to be brought within one year of removal of disability, and if upon claim of non-resident creditor, within two years of the settlement of the estate.

Affidavits may be taken before any officer qualified to take acknowledgments (see above). Date of expiration of officer's commission must be certified.

Aliens. Resident aliens who have declared their intention to become citizens, may acquire, hold, and enjoy real estate, and may convey, devise, mortgage, or otherwise encumber the same, in like manner and with the same effect as citizens of this State. Aliens, whether resident or not, may own real estate not exceeding 320 acres; lands in excess of that amount they must convey within five years or suffer escheat as to such excess.

Arrest for Debt. Defendant in a civil action may be arrested and held to bail in the amount claimed, at any time before judgment, on affidavit that he is about to leave the State, taking with him property subject to execution, with intent to delay or defraud the plaintiff. Bond is required of plaintiff.

Assignments and Insolvency. Any debtor may make a general assignment of all property in trust for benefit of all bona fide creditors. This trust is administered under the direction of the county court. Dividends are allowed on all claims allowed by the trustee or court. Debtor is not discharged from his liabilities.

Attachment may issue against the property of a non-resident or foreign corporation, and against any who may have disposed of, or be about to dispose of, 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, and a bond to pay damages if the proceedings be wrongful or oppressive. Creditors who file under the original attachment, before final judgment, are required to furnish a like affidavit and bond, and all share pro rata in the proceeds of the attached property. The wages of a resident householder, not exceeding one month at any one time, are exempt so long as debtor remains in such employment. It is a misdemeanor to send claims out of the State to be collected by attachment, or garnishment, when creditor, debtor, and person owing for earnings intended to be reached are all within the jurisdiction of the court of this State. The collection of claims so sent may be enjoined.

Banks, Private. Act of 1907 (in effect Dec. 1, 1907), regulating private banking applies to any one who may use the word "bank" in his business. Capital must be at least $10,000, not more than one-third of which may be invested in the bank building. All real estate must be held in name of bank. Bank cannot invest in real estate except in realizing on doubtful claim. Statement must be filed with state auditor showing copy of articles of partnership acknowledged (one of the partners to be resident of the state); location, amount of capital, net worth of partners to be double capital paid in, names of officers. List of officers must be posted in bank. Two reports of resources and liabilities are called for each year by auditor and published in local newspaper. Examination of bank made at least annually by auditor. Statement of property held in trust by bank must be filed in county recorder's office. Depositors have lien on assets. Jurisdiction over all persons interested is obtained by process served on officer in charge.

Banks, Savings. Governed by a general statute which regulates in minute detail the investments and conduct of business. Savings banks may purchase, hold, and convey real estate for the following purposes, and none other: For the location of banking house; real estate mortgaged to it in good faith for money loaned, or upon which it shall have purchased a mortgage; real estate taken upon judgments and decrees on behalf of the bank, or purchased to prevent loss on claims held by the bank.

Banks, State. Regulated by a general banking law.. The auditor of the state appoints a state bank examiner who 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. The examiner reports in detail the condition of the bank from time to time. The state banks must make not less than five reports each year, verified by the president, or other managing agent, which reports must exhibit the resources and liabilities at the close of business on any past day to be by the auditor specified. The report so required must be published in a newspaper 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. The auditor may require special reports from any bank, whenever in his judgment, it shall be necessary in order to a full knowledge of its condition. Any bank failing to make such report shall be subject to a penalty of $100 for each day that it delays to make and transmit the same. All banks are empowered to execute trusts and act as trustees.

Bills of Exchange and Promissory Notes. No grace is allowed. Damages for protest on bills upon any person at any place out of this State, but within the United States, 5 per cent on bills drawn upon any person at any place without the United States, 10 per cent. (See Negotiable Instruments.)

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

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delivered to the mortgagee, shall not be valid against any other person than the parties thereto, unless such mortgage shall be acknowledged, and recorded within ten days after the execution thereof. Where delivery of the chattels to the mortgagee occurs at the time, record is unnecessary. A mortgagee of household goods can not sell mortgaged property except under a judicial proceeding in the circuit or superior court. For certain restrictions on the lending of money on mortgage of household goods, see the statutes.

Conveyances. All conveyances, mortgages or leases for more than three years shall be recorded and take priority according to time of filing as against good faith purchaser, lessee or mortgagee. Lands in this State may be taken, held, conveyed, devised, or passed by descent, by or from any citizen of the United States; or by or from any alien (see Aliens), with some provided exceptions as to descent or devise. Lands which may have come by descent or purchase to the wife of an alien, may be held, conveyed, devised and passed by descent by and from her, notwithstanding the fact of her residence with her husband in a foreign state or country.

Except bona-fide leases for a term not exceeding three years, conveyance of lands, or of any interest therein, must be by deed, subscribed, and acknowledged by the grantor or by his attorney in fact. The joint deed of a husband and wife is sufficient to pass the lands of the wife. Except in cases of mortgages, conveyances in trust, conveyances to husband and wife, and cases of estates vested in executors or trustees, as such, and so held by them in joint tenancy, all conveyances and devises of lands, or of any interest therein, made to two or more persons, shall be construed to create estates in common, and not in joint tenancy, unless it shall be expressed therein that the grantees or devisees shall hold the same in joint tenancy and to the survivor of them, or it shall manifestly appear from tenor of instrument, that it was intended to create an estate in joint tenancy. A deed of release or quit-claim shall pass all the estate which the grantor could convey by a deed of bargain and sale. If it be the intention of the grantor to convey any lesser estate it must be so expressed in the deed. Liability on lineal and collateral warranties is expressly abolished; a covenant or agreement of any person leaves heirs and devisees answerable thereon only to the extent of property descended or devised to them. Any conveyance of land worded—"A. B. conveys and warrants to C. D. (here describe the premises) for the sum of (here insert the consideration)," or "A. B. quit-claims to C. D. (here describe the premises) for the sum of (here insert the consideration),"—the same being dated, and duly signed and acknowledged by the grantor,—shall, in the one case, be a conveyance in fee simple to the grantee, his heirs and assigns, with covenant from the grantor for himself and his heirs and personal representatives that he is lawfully seized of the premises, has good right to convey the same, and guarantees the quiet possession thereof, that the same are free from all incumbrances, and that he will warrant and defend the title of the same against all lawful claims; and shall, in the other case, be deemed to be a good and sufficient conveyance in quit-claim to the grantee, his heirs and assigns. Any mortgage of lands worded—"A. B. mortgages and warrants to C. D. (here describe the premises) to secure the repayment of (here recite the sum for which the mortgage is granted or the note or other evidences of debt, or a description thereof, sought to be secured, also the date of the repayment)"—the same being dated and duly signed and acknowledged by the grantor—is a sufficient mortgage to the grantee, his heirs, assigns, executors and administrators, with warranty from the grantor and his legal representatives of title perfect and unincumbered in the grantor. When a deed purports to convey absolutely any estate in lands, but is made, or intended to be made, defeasible by force of a deed of defeasance, bond or other instrument for that purpose, the original conveyance shall not thereby be defeated or affected as against any person other than the maker of the defeasance, or his heirs or devisees, or persons having actual notice thereof, unless the instrument of defeasance shall have been recorded, according to law, within ninety days after the date of said deed. Every conveyance or mortgage of lands, or of any interest therein, and every lease for more than three years, shall be deemed fraudulent and void as against any subsequent purchaser, lessee or mortgagee in good faith and for a valuable consideration, unless recorded in the recorder's office of the county where such lands are situated. (See Acknowledgments, Married Women.)

Corporations. Domestic Corporations. Corporations are created only under general statutes. This is done by means of articles of association, filed with the secretary of state, and the recorder or clerk of the county, as provided by statute. The liability of stockholders varies according to the nature of the corporation in question and the law under which it was organized. In the corporations which were in existence November 1, 1851, and which accepted the terms of the act of March 6, 1883, stockholders are liable, in case of insolvency, for a sum at least equal to amount of stock held at time the debt was contracted. In most corporations, stockholders who have paid for their stock are not liable for debts of the company. However, there is liability in some cases for labor and services of employes. Shares of capital stock in a private corporation are subject to attachment. Annual reports must be filed in June with the Secretary of State.

Foreign Corporations. Agents of foreign corporations, before entering upon the duties of their agency in this State, shall deposit in the clerk's office of the county, where they propose doing business, the power of attorney, or appointment, under which they act. They shall also file a duly authenticated order, resolution or other sufficient authority of the board of directors authorizing citizens or residents of this State having a demand against such corporation arising out of any transaction in this State with such agents to maintain an action in respect to the same in any court of this State of competent jurisdiction, and authorizing service of process on such agent, and that such service shall authorize judgment and all other proceedings against such corporation. By act of 1913, foreign corporations must file with auditor of State certified copy of vote of directors consenting to accept service of summons on auditor of State as summons on corporation. If foreign corporation has no agent within State, summons may be served on Auditor of State, who shall notify corporation. Contracts made by such agents shall not be enforced in any court of this State until there has been a compliance with the above provisions. Failure of a foreign corporation to comply with these provisions will not bar—but will abate such action. Any person who shall, directly or indirectly ,receive or transmit money or property to or for such corporation, or make any contract, or transact any business for or on account of any such corporation, shall be deemed agent. This provision does not apply, however, to persons acting as agents for a special or temporary purpose or for purposes not within the ordinary business, nor does it apply to attorneys at law. Any person acting as agent of a foreign corporation, who shall neglect or refuse to comply with the foregoing provisions, is liable to a fine in any sum not less than $50. In 1879 it was enacted that: Every foreign corporation now doing or transacting, or that shall hereafter do or transact, any business in this State, or acquire any right, title or interest in or lien upon real estate in this State, that shall transfer or cause to be transferred from any court of this State to any court of the United States, save by regular course of appeal after trial in the State courts, any action commenced by or against such corporation in any court of this State by or against any citizen or resident thereof: or that shall commence in any court of the United States in this State, on any contract made in this State, or liability accrued therein, any suit or action against any citizen or resident of the State of Indiana, shall thereby forfeit all right and authority to do or transact business in this State, or hold real property or liens thereon, and all contracts between such corporations and citizens and residents of this State made after the passage of this act shall be rendered void, as in favor of such corporations, but enforceable by such citizen at his election. The provisions of the foregoing section are made conditions upon which such corporations may be authorized to do business, or hold titles to, or liens on, real estate in this State. By the act of 1901, foreign corporations are required to designate an agent in this State upon whom legal process may be served; to have an office where proper books of account may be kept. By act of 1907 foreign corporations desiring admission to state must make verified statement to Secretary of State showing: articles of incorporation, business intended to pursue, capital stock, proportion of its business carried on in this State, amount paid in on capital stock, and answers to other interrogatories propounded by the Secretary of State, and shall pay a fee of $25 on first $10,000 of assets used in Indiana, $10.00 for each additional $10,000. Annual report must be filed in January and fee of $1 paid. Foreign corporations may not hold real estate except such as may be necessary for proper carrying on of its legitimate business.

Courts. Terms and Jurisdiction. The circuit court is the only court of original general civil jurisdiction in the State. It has full probate powers, except in Marion County, where there is a separate probate court. Superior courts have been established in many counties. Justice's jurisdiction, $200. Party may confess judgment before a justice of the peace for $300. When a written obligation for money binds more than one party the justice of the peace may issue process to constable of any county in the State where party resides. The supreme court has no original jurisdiction. It sits at Indianapolis. The appellate court has final jurisdiction in many cases.

Days of Grace are no longer recognized.

Depositions. Depositions may be taken anywhere in the United States without a commission, before any judge, justice of the peace notary public, mayor, or recorder of a city, clerk of a court of record, or commissioner appointed by the court to take depositions. Person taking deposition must not be of kin to either party or interested in the action. When taken outside of the United States they shall be taken pursuant to an order of the court, under a commission, with such reasonable notice of the time and place of taking the same as the court shall require, and they shall be certified and returned by the commissioner in such manner as the court shall direct. Notice of the taking of the deposition should be served upon the adverse party or his attorney, specifying the cause, the court or tribunal of trial, the time and place of taking, and the names of the witnesses. Reasonable time shall be allowed for the attorney so served to communicate with the client, and for travel to the place of taking, excluding the day of service, of the taking, of and intervening Sundays. The deponent shall be first sworn according to law. He shall then be examined by the party producing him, and then by the adverse party, and then by the officer, if he see cause. The deposition shall be written down by the officer, by the deponent, or by some disinterested person, in the presence and under the direction of the officer, and after the same has been carefully read shall be subscribed by him. The jollowing facts shall be stated in a certificate to be annexed by the officer: 1. That the deponent was sworn according to law. 2. By whom the deposition was written, and if written by deponent or some disinterested person, that it was written in the presence and under the direction of the officer. 3. Whether the adverse party attended. 4. The time and place of taking, and the officer shall sign and attest the certificate, and seal the same, if he have a seal of office. If he have no seal, his certificate shall be authenticated by the certificate and seal of the clerk or prothonotary of any court of record of the county in which the officer exercises the duties of his office. The officer taking the deposition shall seal the same in a sufficient envelope and himself post, or express, or deliver the same to the clerk of the court in which the action is pending, endorsing on the envelope the names of the parties and of the court and of the witnesses whose depositions are enclosed. Adjournments may be had from day to day after the deposition has been begun, and for longer periods, upon written consent of the parties, which written consent must be attached to the deposition. Adjournments should be noted at the place in the deposition when they occur. A narrative form may be used. A witness identifying a written instrument should attach it to his deposition, making it a part of his answer.

Descent. The real and personal property of any intestate shall descend to his or her children equally; and posthumous children inherit equally with those born before the death of the ancestor. Children of deceased children take the share which would have descended to the father or mother; and grandchildren, and more remote descendants, and other relatives, lineal and collateral, inherit by the same rule, excepting that if the heirs are all grandchildren they inherit equally. Where there are no heirs as aforesaid, one-half of the estate goes to the father and mother as joint tenants, or to the survivor, and the other half to the brothers and sisters, and to the descendants of such as are dead, as tenants in common. If there be neither father nor mother, the brothers and sisters, and the other descendants, take the estate as tenants in common; or, per contra, the father and mother as joint tenants of the survivor. Kindred of the half-blood inherit equally with those of the whole-blood in property purchased by the ancestor; otherwise, as to property acquired by gift, devise, or descent. Illegitimate children inherit from the mother same as if they were legitimate, and vice versa. Tenancy by the curtesy and dower are abolished, and widows take one-third of the real estate in fee simple, unless the property is worth over $10,000, in which case, as against creditors, she takes one-fourth only; and where the real estate is worth over $20.000, one-fifth only as against creditors, but as against other heirs she takes one-third in fee simple, regardless of value, except where there is but one child, in which case each inherits one-half. A second or subsequent wife, however, takes only a life estate in her husband's lands. if there be a child or children by a previous marriage, and none by such widow. Other special provisions of the statute are too extensive to set out. The estate of a person dying intestate without kindred capable of inheriting will escheat to the State for the support of the common schools. (See Taxes.)

Dower. (See Married Women.)

Executions may issue at any time within ten years after judgment 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 judgment 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; 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. Property up to $600 is exempt where debtor is a resident householder. Resident householder is entitled to exemption

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as well when in transit with his family and property as when permanently settled. The debtor must file a schedule of all of his property, and select the property claimed, which is then appraised. Contract waiving exemption is void. 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. One month's wages also exempt if the debtor is still employed.

Fraud. Assignments, in writing or otherwise, of any property made or suffered with intent to hinder, or defraud are void as to the persons defrauded. The question of fraudulent intent is a question of fact.

Frauds—Statute of. The following contracts, if enforcible in court, must be in writing and signed by the party to be charged: 1. To charge an executor or administrator, upon any special promise, to answer damages out of his own estate. 2. To charge any person, upon any special promise, to answer for the debt, default, or miscarriage of another. 3. To charge any person, upon any agreement or promise, made in consideration of marriage. 4. Upon any contract for the sale of land (except loan not exceeding the term of three years). 5. Upon any agreement not to be performed within one year from the making thereof. 6. Sale of goods exceeding $50 in value, unless part payment or part delivery be made. 7. Upon any representation made concerning the character, conduct, credit, ability, trade or dealings of any other person.

Garnishment. (See Attachment.) Garnishment is a remedy in aid of attachment. Upon any personal action arising out of contract any person may be summoned as a garnishee defendant upon an affidavit that official has good reason to believe that any person named has property of the defendant in his possession or under his control, or that he is indebted to the defendant, or has control or agency of money, property, credits, or effects; that he has any share or interest in the stock of any association or corporation, and all money or property in the hands of the garnishee defendant is bound from the time the summons is served upon him. Resident householders are entitled to an exemption of $600 in garnishment proceedings, as in all other cases. Wages of non-residents, to the amount of $25, and of resident householders to the extent of one month's wages, are exempt from execution so long as the defendant remains in the employ of the garnishee. Indiana claims can not legally be sent or taken out of the State for prosecution, and suits instituted elsewhere in violation of this prohibition may be enjoined and the offender be criminally prosecuted.

Holidays. (See Bills of Exchange and Promissory Notes.)

Husband and Wife. (See Married Women.)

Inheritance Tax. (See Taxes.)

Interest. The legal rate is 6 per cent, but interest may be taken 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 8 per cent. When a greater rate is contracted for, the contract is void as to all interest in excess of 6 per cent, is usurious and illegal, and the excess may be recouped by the debtor whenever it has been reserved or paid before the bringing of the suit. Interest on judgments runs from the date of the verdict or finding, at the rate specified in the original contract, not exceeding 6 per cent, and if no contract has been made 6 per cent is allowed.

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. Judgment in justice court becomes a lien on real estate of judgment defendant from time of filing a transcript in office of the clerk of circuit court. A certified copy of any judgment rendered by the circuit court of the United States for district of Indiana may be filed with the county clerk.

Legal Holidays as to commercial paper are as follows: The first day of the week, commonly called Sunday; the 1st day of January; the 4th day of July; the 25th day of December; any day appointed by the president or governor for public fasting or thanksgiving; 12th day of February; 22d day of February; 30th day of May; first Monday of September; 12th day of October; and any election day; when any holiday (other than Sunday) comes on Sunday the Monday next succeeding shall be the legal holiday; Saturday afternoon is a legal half-holiday in the city of Indianapolis and may be made so by act of bankers in other cities of over 35,000 population.

Liens. Liens are granted by statute to attorneys; to persons holding claims against watercraft on account of supplies furnished or work done; also for demands for damages arising out of freight contracts, or for willfulness or negligence of the master, owner, or agent, or out of any contract relating to transportation, and for injuries to persons or property; also to employes of any corporation as against any of its corporate property or earnings for labor done; also to keepers of livery stables and all persons engaged in feeding stock, for the feed and care bestowed upon the same, also to blacksmiths; also to contractors, sub-contractors, mechanics, journeymen, laborers, and all persons performing labor or furnishing material or machinery for erecting, laboring, repairing or removing any house, mill, manufactory or other building, bridge, reservoir, system of water-works, or other structure, known as a mechanic's lien; also to bailees and tradesmen for their valid and reasonable charges in the construction, repair, or alteration of any article of value; also to the bailee or keeper of personal property for any feed or care bestowed by him upon such property; special lien for storage or repair of motor cars, also to forwarding and commission merchants on goods which may have remained in store for one year or more. Persons storing, furnishing supplies, or repairing an automobile or garage owners have lien on automobile which can be foreclosed within one year from failure of owner to pay charges. Judgments rendered in any county in the State are a lien upon the real estate situated in such county for a period of ten years from the rendition thereof, and judgments rendered in the federal courts are a lien upon any real estate in the State for the same period. Provision is made by statute, however, for the filing in the county where the real estate is situated of a transcript of any judgment rendered in the United States courts. The office of the clerk of the circuit court in each county contains a public record known as the lis pendens record, in which notice of the filing of complaints to enforce liens are required to be recorded, and also in cases where real estate is seized by attachment or execution. Unless so recorded the bringing of suits does not operate as a constructive notice.

Limitations to Suits. Actions for injury to person and character, and for statutory penalty or forfeiture, two years; against public officers relating to their official duties, and on public improvement assessments, five years; 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. Except in favor of sureties, the statute of limitation does not run against the State.

Married Women control their real and personal property. The husband is liable for the wife's debts contracted before marriage to the extent of the personal property he may receive from her, and no further, and her lands are liable for such indebtedness. A married woman may devise 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. She 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. She may sue as a femme sole for any damage to her person or character. She is bound in like manner as principal on her official bond. She can not enter into any contract of suretyship, 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, as an inducement to her contract, she makes a sworn statement that contract or mortgage is for her own benefit, in respect to her separate estate, she is estopped from alleging her suretyship as against any one having no knowledge that the contract is one of suretyship. She 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. 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 personalty 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 personalty after payment of debts, and in all cases takes $500 without accounting, and may occupy the dwelling and forty acres of her husband's land for a year, rent free. But the one-third of her 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, is held as an estate by entirety; it 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 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.

Mortgages. (See Conveyances.)

Negotiable Instruments are defined by Chapter 63 of the Acts of 1913. Section 1 provides that an instrument to be negotiable must conform to the following requirements:

1. It must be in writing and signed by the maker or drawer.
2. Must contain an unconditional promise or order to pay a certain sum in money.
3. Must be payable on demand, or at a fixed or determinable future time.
4. Must be payable to order or to bearer.
5. Where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty.

Its negotiability is not affected by a provision which authorizes the sale of collateral securities in case the instrument is not paid at maturity, or authorizes a confession of judgment if the instrument be not paid at maturity, or waives the benefit of any law intended for the advantage of the obligor, or gives the holder an election to require something to be done in lieu of the payment of money.

To charge indorser notice of non-payment must be given to him at once, unless waived by him.

Every negotiable instrument is payable at the time fixed therein without grace. Where day of maturity falls on Sunday or a holiday, instrument is payable on next succeeding business day. Instruments payable on Saturday are to be presented for payment on next succeeding business day, except that demand instruments may be presented for payment before noon Saturday when that entire day is not a holiday.

In any case not provided for in the act the law merchant governs, and all laws in conflict are repealed.

Act does not apply to negotiable instruments made and delivered before April, 1913.

Power of Attorney must be executed and acknowledged, and (if for the conveyance of real estate, or to affect real estate) recorded, in the same manner that deeds are made.

Probate Law. (See Administration of Estates.)

Protest. The statutory damages on such protest are 5 per cent on the principal of a bill of exchange, if drawn or negotiated within this State, upon any person, at any place out of this State, but within the United States, and 10 per cent if upon any person, at any place without the United States.

Replevin. When any personal property is wrongfully taken or unlawfully detained, or, if taken on execution or attachment, is claimed by a third party, the owner or claimant may bring an action for possession thereof. He may claim immediate delivery upon affidavit therefor, whereupon the sheriff takes possession of the property, and if a delivery bond is given on behalf of the defendant within twenty-four hours, the property is returned to him, otherwise the plaintiff may give bond and take the property; failing to do so it is returned to the defendant. The plaintiff has twenty-four hours in which to file bond. Justices of the peace have jurisdiction in replevin suits involving property worth $200 or less. Procedure is same before justice of the peace, except that the plaintiff must file bond in all such cases. Replevin may also be had without bond, by allowing defendant to retain possession of property pending suit.

Suits. (See Actions.)

Taxes. State, county, township, municipal, school, and road taxes attach as a lien on real estate on March 1st of each year, and penalties attach on first Monday in May in the next year. One-half of all taxes may be paid without penalty, if paid before first Monday of May; other half, if paid before first Monday of November. Sales of real estate for taxes are held on the second Monday of February, 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 10 to 25 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 of the sale. An inheritance tax, graduated in amount according to the amount involved, and the relation of the beneficiaries to the decedent, is levied upon all intangible or tangible proper of resident decedent, and upon tangible proper of non-resident decedent. Tax applies as well to gifts made in anticipation of death, to take effect at that time.

Wills. Nuncupative wills, where property of more than the value of $100 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 is valid unless signed in the presence of two or more witnesses 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. Will made before marriage becomes void on marriage.

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SYNOPSIS OF

THE LAWS OF IOWA

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by DALE & HARVISON, Attorneys at Law, Des Moines. (See Card in Attorneys' List.)

Accounts and Claims of. Statements of account, for use in court or for proof in the settlement of estates of deceased and in guardianship matters, must be itemized and verified. A statement of "balance," or "goods," or "merchandise" is not sufficient.

Acknowledgments. All instruments affecting real estate, including mortgages, deeds of trust, powers of attorney relating thereto, and leases for more than one year, must be acknowledged or the execution thereof proved, and the instruments must be recorded in the proper office, so as to affect third parties. The same is also true as to bills of sale, absolute or conditional, and chattel mortgages relating to personal property. Articles of incorporation must also be acknowledged and recorded. The forms of acknowledgment and the officers, within and without the State, before whom such acknowledgments may be made are prescribed by statute.

Actions. The common law forms of pleading are not used, although the common law forms the basis of procedure. Pleading, practice, and procedure are statutory, and accord, in the main, with what is known as the reformed, or code procedure.

Administration of Estates. Where an executor is not appointed by will, administration shall be granted: 1. To the spouse of the deceased. 2. To the next of kin. 3. To creditors. 4. To any other person whom the court may select. Claims against the estate of a deceased person are payable in the following order: 1. Debts entitled to a preference under the laws of the United States. 2. Public rates and taxes. 3. Claims filed within six months after the first publication of the notice given by the executors or administrators of their appointment. 4. All other debts. 5. Legacies and distributive shares. All claims of the fourth of the above classes not filed and allowed, or if filed and notice thereof not served within twelve months from the giving of the notice of appointment are barred, except as to actions against decedent pending in the district or supreme court at the time of his death, or unless peculiar circumstances entitle the claimant to equitable relief.

Affidavits. Affidavits may be taken before any person authorized to administer oaths in the state where taken. If taken without the State of Iowa, the official character of the officer administering the oath should be evidenced in the same way as the official character of an officer taking depositions. (See Depositions.) Affidavits may be taken within the State for any lawful purpose, of one unwilling to voluntarily make an affidavit, by filing a petition with an officer authorized to administer oaths, who may cause the person to come before him and make affidavit. This proceeding is statutary and must conform strictly to the statutes of Iowa.

Aliens. Non-resident aliens or corporations incorporated under the laws of any foreign country or corporations organized in this country, one-half of the stock of which is owned or controlled by non-resident aliens are prohibited from acquiring title to or holding any real estate in Iowa, but the non-resident alien widow, heirs, or devisees of an alien or naturalized citizen may hold the same for twenty years, and if not sold within that time, escheats to the State. Aliens may acquire property of any kind within a city or town or lands not exceeding 320 acres or stock in any corporation for pecuniary profit and may alienate or devise the same, but this law does not affect personal property. A lien holder may acquire title to the property embraced in such lien but real estate so acquired must be sold within ten years after title is perfected in an alien, otherwise it will escheat to the State.

Arrest. No person can be imprisoned for debt on either mesne or final process, unless in case of fraud. Debtors, however, may be ordered to appear before a court or record wherein a judgment has been rendered, and if the debtor is about to leave the State, or conceal himself, he may be arrested and compelled to give bond to appear before the court for examination, and in the meantime, not dispose of his property.

Assignments and Insolvency. General assignments not valid unless for benefit of all creditors, when assent of creditors is presumed. The debtor must annex to the instrument of assignment a sworn inventory and list of creditors; and such instrument must be acknowledged and all of the papers recorded like a deed of real estate. The assignment vests in the assignee title to all property of the debtor. Assignee must give bonds, prepare a verified inventory and valuation, and notify creditors by mail to file claims within three months. All claims not filed within three months after notice published or within such extended time as the court grants, not exceeding nine months, including claims not yet due, can not be paid until all claims filed within said time are paid. An assignment does not discharge the debtor from his debts and liabilities, but only entitles creditors to share equally in his estate. All claims filed must be itemized and sworn to.

Attachments. An attachment, auxiliary to the main case, may be sued out upon any one of twelve (12) statutory grounds for a debt, which is past due; or upon any one of four (4) statutory grounds for a debt on contract, not yet due. A bond must be filed for three times the amount claimed, if the action is founded upon contract, otherwise, in a sum to be fixed by the court, if the action is not founded upon contract. Garnishments may be effected under the writ of attachment. Special attachments are permitted, to attach specific personal property, in a few prescribed cases.

Banks. The banks organized under the laws of Iowa are respectively designated as savings banks and state banks.

Savings banks must have a minimum capital of from $10,000 to $50,000, according to the population of the city or town in which each is located. Each share must be of the par value of $100. The statutory provisions must be consulted concerning the manner of organization, the issuance of and payment for capital stock, the board of directors, quorum, voting by proxy, limitation of deposits, and the investment thereof, the loaning of funds, the cash reserve required, and the dissolution of such banks

State banks must have a minimum capital of from $25,000 to $50,000, according to the population of the city or town in which each is located. Each share must be of the par value of $100. The statutory provisions must be consulted for the particulars above referred to on the subject of savings banks.

Banks and loan and trust companies may obtain power to act as executor, administrator, guardian, receiver, assignee, trustee, or in other fiduciary capacity. National Banks may exercise the same powers when authorized by Act of Congress. Any Iowa State or Savings Bank or Trust Company may become a member of the Federal Reserve bank system.

Bills of Exchange. The negotiable instrument law recommended by the interstate commission on uniformity of law has been enacted and is now law in Iowa. (For Grace, See Days of Grace.) A provision for the payment of exchange, in addition to the amount of principal and interest, does not render a bill of exchange non-negotiable.

Bills of Lading. The uniform Bill of Lading law has been adopted in Iowa.

Collateral Securities. There are special statutory provisions concerning the pledging of corporate stock, as security; and also upon the subject of sales of collaterals by action in court and judicial sale. Otherwise the subject is governed by the common law.

Conditional Sales. No sale, contract, or lease wherein the transfer of title or ownership of personal property is made to depend upon any condition, shall be valid against any creditor or purchaser of the vendee or lessee in actual possession, obtained in pursuance thereof, without notice, unless the same be in writing, executed by the vendor or lessor, acknowledged and recorded the same as chattel mortgages.

Conveyances. No particular form is necessary for conveyances or mortgages. The name of the parties, the description of the property, the consideration, the date, signature, and acknowledgment, is all that is necessary; as between the parties they are valid without being recorded. The wife must join with her husband in conveyances, and a conveyance of the homestead is of no validity unless husband and wife concur in and sign the same joint instrument. A corporation executes conveyances under its corporate seal, except where the corporation has not adopted a seal. Such conveyances must be signed in the name of the corporation by the officers authorized so to do, by the Articles of Incorporation, or By-Laws, or by resolution duly entered of record in the minutes of the corporation, and duly acknowledged by such officers, as the act of the corporation.

Corporations. Private corporations, sole or aggregate, may be formed for any lawful purpose. But there are special statutory provisions which must be complied with for the organization and government of insurance, banking, loan and trust, building and loan, and railway corporations. In all cases, the articles of incorporation must be acknowledged and recorded, in the manner provided by law, and approved by the secretary of state. With a few exceptions, an incorporation fee of $25, plus $10 for each thousand dollars of capital in excess of $10,000 must be paid, upon the organization or renewal of a private corporation. The general term of the life of a private corporation is twenty years, renewable for a like term. Railroads, savings banks, and a few others may last fifty years, also renewable.

Foreign Corporations are required to pay a similar incorporation fee before doing business in the State, based, however, upon the property of the corporation, within the State of Iowa. Foreign public service corporations, other than steam railroads, doing business in Iowa, and holding companies controlling the stock of such companies, are made subject to many of the laws of Iowa affecting similar domestic corporations.

Courts. Terms and Jurisdiction. The district court has jurisdiction of all actions, civil and equitable, and has criminal and probate jurisdiction. Superior courts may be established by the vote of the people in any city of 5,000 inhabitants. It has jurisdiction to try all violations of city ordinances, and the same criminal jurisdiction as justice of the peace courts. It has jurisdiction to try and determine civil and criminal appeals and civil writs of error from justices of the peace, situated in the township where the court is located. Has the same jurisdiction as the district court to try all suits in law and equity, except grant divorces, alimony, and separate maintenance, and it has no probate jurisdiction. Transcripts from superior and justice's courts must be filed in district court to create a lien on real estate, and are then enforced as judgments of the district court; justice's jurisdiction, $100, or, by written consent of parties, $300. The supreme court has only appellate jurisdiction and holds sessions at Des Moines, January to May, from May to September (less vacation), and from September to December.

Days of Grace. Every negotiable instrument is payable at the time fixed therein without grace.

Depositions may be taken within the State, on notice, and within or without the State, on commission, issued after notice by the clerk of the proper court. When to be taken on commission, defendant may elect, in writing, duly served, to cross examine orally; thereupon plaintiff may also elect in writing to examine orally. Exceptions must be filed within three (3) days, after the filing of the deposition, but objections may neverless be made on the trial for competency, materiality, and relevancy.

Descent and Distribution of Property. Subject to rights of dower and other charges thereon, and burdens imposed during the lifetime of the decedent, and in the absence of a valid will, the estate of one deceased shall descend in equal shares to his children. The heirs of any deceased child shall inherit in same manner as though such child had outlived his parents. If the intestate leave no issue one-half of his estate shall go to the parents, the other to the spouse. If no surviving spouse, the whole thereof shall go to his parents or the survivor of them; and so on through ascending ancestors and their issue, if both parents be dead. Personal property not necessary to pay debts is distributed to the same persons, and in the same proportions as though it were real estate.

Dower. Dower in Iowa is abolished, but the surviving spouse is entitled to one-third in value of all the legal and equitable estates in real property possessed by the deceased spouse at any time during the marriage, which have not been sold on execution or any other judicial sale, and to which such survivor has made no relinquishment of right. A spouse, heir or devisee feloniously taking or procuring the taking of the life of the other spouse, or decedent, cannot have dower or inherit power or take under the will of the decedent. (See Limitations.)

Executions may be stayed, according to their amount, for ninety days or six months, with a few specified exceptions, and the issuance of execution may be prevented by filing an appeal bond. Otherwise execution may issue immediately after rendition of judgment. The judgment is a lien on realty within the county where rendered, or by transcript, it may be made a lien in any other county. Executions become liens on personal property only from the time of the levy and seizure. Real estate is sold on execution subject to redemption within one year, except in appealed cases, or where the interest is a leasehold of two years or less. Creditors may redeem from the sale after six months and before nine months from date of sale. Personal property is sold without redemption.

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Exemptions. The head of a family is entitled to a homestead of forty acres or less of farm land, or half an acre or less in city or town. Pension money, its proceeds, wages of a married man, and numerous items of personal property are exempt by statute. There are statutory provisions concerning the creation of liens on exempt real or personal property, and the assignment of exempt wages.

Fraud. In actions for fraud, heretofore solely cognizable in a court of chancery, the cause of action shall not be deemed to have accrued until the fraud complained of shall have been discovered by the party aggrieved by the exercise of due diligence. In actions brought by a judgment creditor to set aside a fraudulent conveyance of property from one spouse to the other and to subject said property to execution, either husband or wife may be compelled to testify against the other. Gross fraud is punishable by fine or imprisonment.

Garnishments. (See Attachments.)

Husband and Wife. (See Married Women.)

Interest. By written contract, maximum legal rate, 8 per cent. Judgments draw 6 per cent, or such rate as is fixed by the contract on which the judgment or decree is rendered, not exceeding 8 per cent per annum. Open accounts draw 6 per cent after six months from date of last item; money loaned, money due, money due on settlement of accounts, bear interest at 6 per cent per annum. Contract for more than 8 per cent forfeits all interest and costs.

Judgments in the district and superior courts may be obtained at first term after suit commenced, if undefended; an equitable action, except one for foreclosure of mortgage, or mechanic's lien or for divorce, is triable at the second term after the case is at issue. Judgments of the district court are liens on real estate owned by the debtor at the time of rendition. If the lands lie 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, or upon which a levy is made after ten or before twenty years from the date of the judgment, but this lien dates only from the time of the levy. Judgments of superior courts and justice of peace courts become liens on real estate by filing transcript in district court within county where obtained, and become liens in other counties in the same manner as if rendered in the district court.

Liens. These are mainly created by statute and are enforceable in equity. In a few cases, and under peculiar circumstances, equitable liens on real estate are established and enforced in equity.

Limitations. Actions, according to their subject matter, have various periods of limitation, fixed by statute, extending from three months to ten years after the cause of action accrued. Actions upon judgments rendered in courts of record have a limitation of twenty years. Dower rights and mortgages existing or created prior to January 1, 1885, are barred, unless now properly preserved in the recorder's office. Imperfect deeds by executors, administrators, trustees, or guardians made prior to January 1, 1885, are confirmed in favor of grantees in possession.

Married Women may own in their own right, real and personal property, and may manage, sell, convey, and devise the same by will. Neither husband nor wife is liable for the debts or liabilities of the other incurred before or after marriage, nor are the wages, earnings, or property of either, liable for the separate debts of the other. Contracts may be made by a wife, liabilities incurred, and enforced by or against her, as if unmarried. Both husband and wife are liable for the expenses of the family, and the education of the children.

Mortgages must be subscribed and acknowledged by the parties creating the lien and recorded same as deeds are foreclosed by equitable action. The wife should join in the instrument, except mortgages for purchase money, and mortgages upon non-exempt personal property. The mortgagor has one year in which to redeem real estate after execution sale, except as stated under the sub-title "Executions." When a mortgage is paid off, satisfaction thereof must be made on margin of the record, or by satisfaction piece, acknowledged and recorded. If no satisfaction is entered within thirty days after request in writing, the mortgagee forfeits $25. (See Chattel Mortgages.) (See Limitations.)

Notaries. These officers are appointed and commissioned by the governor, upon filing a bond and paying the fee required by law. They have power to administer oaths, take depositions, and the usual power of such officers concerning presentation, demand, protest, and notice of protest of negotiable commercial paper.

Partnerships, Limited and Special. Limited and special partnerships are permitted, but not favored. The statutes on this subject must be strictly complied with. A certificate showing prescribed details and particulars of the partnership must be signed, acknowledged, and filed in the office of the clerk of the district court of the county in which the principal place of business is situated, to be there recorded and similarly recorded in each county where such partnership has a place of business. There must be an affidavit that the amount stated in the certificate has been actually contributed by each separate partner. Publication must be made of the certificate and affidavit for six weeks in two newspapers in each senatorial district in which the partnership is to transact business.

Powers of Attorney. A power of attorney to convey, or in any manner affect real estate, must be acknowledged and recorded. A revocation of such power must be acknowledged and recorded in the same office wherein the original power of attorney is recorded.

Receivers. In distributing property in the hands of a receiver there shall be paid in the following order: 1. Taxes or debts due the United States; 2. Taxes or debts due the State. 3. Debts owing to employes for labor, not exceeding $100.

Records. All instruments conveying or creating liens upon the real or personal property, all conditional sales and articles of adoption of a minor child, must, after having been signed and acknowledged, be recorded in the office of the recorder of deeds in the proper county or counties where the property conveyed is situated, or the minor child is. Unless so recorded, such instruments are invalid as to a bona fide purchaser or encumbrancer or as articles of adoption.

Redemption. Redemption from a sheriff's sale of real estate, whether sold under a general or special execution, may be made by a creditor who has a lien on the property sold, at time after six months from date of sale by paying to the clerk of the court the amount provided by statute, being, generally, the amount of the purchaser's bid, with interest at the same rate that the judgment bears. Within the time named creditors may redeem from each other. After nine months, and within one year from the date of sale the owner of the real estate sold has the exclusive right to redeem from such sale, and, in so doing, the debtor must pay off the claims of judgment creditors, who have made redemptions as hereinabove stated, in addition to the amount originally bid.

Replevin. In actions for the recovery of personal property, the petition must be verified; and if plaintiff desires immediate delivery of the property, he shall execute a bond for double the value of the property sought to be recovered. The defendant may stay all proceedings and retain the property by executing a bond to the plaintiff with sureties to be approved by the clerk.

Sales of Goods in Bulk. Sales, including exchange and assignments, of the whole or major part of a stock of goods, or fixtures, or stock of goods and fixtures, in bulk, is presumptively fraudulent, unless three (3) days' notice in writing is previously mailed to each creditor of the seller.

Stocks and Bonds. The sale of stocks and bonds is governed by what is termed a "Blue Sky Law."

Taxes. Real estate is assessed every odd year; personal property is assessed every year. All property is assessed at its actual value, and taxed at twenty-five (25) per cent of the assessed value. All road taxes and one-half of the other taxes levied are payable without interest or penalty before April 1st; the balance is payable before October 1st. Delinquent taxes bear interest at the rate of 1 per cent per month. Taxes upon realty are liens thereon; taxes upon personalty are liens upon the owner's realty, except the homestead, and may be continued as such liens, if the statute is complied with, from year to year. Taxes on personalty are liens on the personal property of non-residents, stocks of goods sold in bulk, and buildings or additions made after the assessment for taxation in the odd years. Personal property may be levied on and sold for taxes by distress and sale. Real estate is sold for unpaid taxes, after notice by publication, on the first Monday in December of each year, subject to redemption in three years from the date of sale.

Trust Companies. Domestic trust companies are organized under and governed by the general corporation laws of the State. Foreign trust companies doing business in this State are governed and controlled by the general statutes concerning and relating to foreign corporations doing business in Iowa. (See Corporations.)

Trust Deeds. They must be executed and foreclosed, and considered as mortgages. That is, the power of sale on notice is abolished, and they must be foreclosed by equitable action.

Warehouse Receipts. Any person, firm, or corporation desiring to issue elevator or warehouse certificates (or receipts) must file a written declaration with the recorder of deeds in the county where his or its elevator or warehouse is situated, setting forth the particulars required by statute, which declaration must be recorded by the recorder of deeds. Thereafter he or it may issue certificates for commodities actually in such elevator or warehouse, but the certificates must conform to the statutory provisions. A register of certificates issued must be kept by the parties isuing them. A violation of these provisions, issuing double certificates for the same property, or selling or encumbering property included in any warehouse receipt, is made a criminal offense. There is also a criminal statute against issuing false warehouse receipts or certificates.

Wills. Any person of full age and sound mind may dispose of his property by will, subject to the rights of homestead and exemption created by law and the distributive share in his estate given by law to the surviving spouse, except sufficient to pay his debts and expenses of administration. Wills, to be valid, must be written, witnessed by two competent witnesses, signed by the testator, or by some person in his presence and by his express direction. Subscribing witnesses can derive no benefit from a will, unless there be two competent witnesses besides them. Wills executed outside of Iowa, in accordance with the laws of the State where executed or of the testator's domicile, if in writing and subscribed by the testator are valid in Iowa. If probated in any other state or country they shall be admitted to probate in this State on the production of a copy of such will, and of the original record of probate thereof, authenticated by the attestation of the clerk of the court in which such probation was made or of the probate judge, under seal, if they have one. All wills must be probated before they can be effectual.

SYNOPSIS OF

THE LAWS OF KANSAS

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by McCLINTOCK, QUANT and KRAUTHOFF,
Attorneys at Law, Topeka.
(See Card in Attorneys' List.)

Acknowledgments. (See Deeds.)

Actions. Civil actions are conducted as required by a code of procedure. Security for costs must be given or resident plaintiffs may deposit $15 in lieu of bond for costs. Non-resident plaintiffs may be required to give bond for costs.

Administration of Estates. Probate courts in each county have jurisdiction of estates. Demands against the estate are divided into the following classes: 1. Funeral expenses. 2. Expenses of the last sickness; wages of servants; demands for medicines and medical attendance during the last sickness and expense of administration. 3. Debts due the State. 4. Judgments rendered against the deceased in his lifetime; but if such judgments are liens upon real estate and the estate be insolvent, such judgments shall be paid without reference to classification, except the first two which have precedence. 5. All demands without regard to quality which shall be legally exhibited against the estate in one year after granting letters of administration. 6. All demands thus exhibited after the end of one year and within two years. Demands not exhibited within two years are barred, except as to infants, persons of unsound mind or persons imprisoned or absent from the United States, who shall have one years after the removal of their disabilities. Foreign executors, and administrators with the will annexed, may sell real estate in this State in accordance with the power contained in the will, unless administration upon the estate has been granted in this State; provided that at the time of such conveyance a copy of such will has been recorded in the office of the probate court in the county in which the land is situated.

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Affidavits. Affidavits may be made in or out of the State by the same authority and with like authentication, as depositions.

Aliens. Law prohibiting aliens from inheriting or holding real estate, repealed 1901. (See Foreign Corporations.)

Arbitrations. Persons having controversies may submit them to the arbitration of any person or persons mutually agreed upon and may make such submission a rule of any court of record in the State. The parties may enter into arbitration bonds conditioned for the faithful performance of the award.

Arrest. A defendant may be arrested in a civil action upon filing an affidavit with the clerk of the court that he has removed or begun to remove his property out of the jurisdiction of the court with intent to defraud his creditors; or has begun to convert his property into cash, for the purpose of placing it beyond the reach of his creditors; or has property which he fraudulently conceals; or fraudulently contracted the debt.

Assignments and Insolvency. Assignments must be for the benefit of all creditors and only discharge the debtor to the amount of payments made.

Attachment. At or after the commencement of an action an attachment may be had by 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: 1. 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). 2. That the defendant absconded with the intention to defraud his creditors. 3. That the defendant has left the county of his residence to avoid a service of summons. 4. That he so concealed himself that summons can not be served upon him. 5. 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. 6. 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. 7. He has property or rights in action which he conceals. 8. 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. 9. Or fraudulently contracted or incurred the debt on which the suit is brought. 10. Or that the suit is brought for damages from the commission of some felony or misdemeanor. 11. Or that the debtor has failed to pay for any article or thing delivered for which by contract he was bound to pay upon delivery.

Banks and Banking. There is no constitutional provision relating to banks, except banks of issue. Other banks are organized under a general act. The charter, in addition to the requirements of the law relating to corporations, shall contain the names and places of residence of the stockholders and the amount of stock subscribed by each, and may contain such other provisions, not inconsistent with law, as the stockholders may deem proper, and shall be subscribed by at least five of the stockholders of the proposed bank who are residents of the State of Kansas. Board of directors shall be not less than five, nor more than thirteen, a majority of whom shall be residents of the county or adjoining counties to that in which the bank is located. The word "State" shall be included in the title. The full amount of the capital stock must be subscribed before the charter is filed. The bank shall transact no business, except the election of officers, the taking and approving of their official bonds, and the receipts of payments on account of subscriptions to its capital stock, until it has been authorized by the bank commissioner to commence business. The capital stock must be paid, in full, in cash and shall not be less than $10,000. No bank shall employ its money directly or indirectly in trade or commerce by buying and selling goods, chattels, wares, and merchandise, and shall not invest in the stock of any bank or corporation, nor make any loans on the security of the shares of its own capital, nor be the purchaser or holder of any such shares, except to prevent loss upon a debt previously contracted in good faith. All such property coming into the possession of the bank in the collection of debts shall not be considered assets after the expiration of six months. Banks must have on hand in available funds the following sums: In cities having less than 5,000 population, 20 per cent of their deposits; in cities having over 5,000 population, 25 per cent, one-half of which may consist of balances due from good solvent banks located at commercial centers and at such other points as the bank commissioner may approve. The other half shall consist of actual cash. Officers are personally liable for paying overdrafts. Not more than 15 per cent of the capital stock and surplus can be loaned to any one person, company or corporation. No bank shall accept deposits continuously for six months in excess of ten times its paid-up capital and surplus. Penalties are provided for false statements and for receiving deposits when the bank is in a failing condition. 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. Banks may purchase, hold, and convey real estate under certain conditions to the extent of 50 per cent of their paid-up capital. Shareholders are additionally liable for a sum equal to the par value of stock owned and no more.

Deposit Guaranty Fund. Any bank having an unimpaired surplus equal to 10 per cent of its capital, may participate in the guaranty fund act. Such bank must deposit with the state treasurer money or bonds of the United States, State of Kansas, or of any township, school district, board of education or city within the State, to the amount of $500 for each $100,000 of its average deposits eligible to guaranty (less its capital and surplus). It shall also pay in cash an amount equal to one-twentieth of one per cent of its average deposits eligible to guaranty (less its capital and surplus).

In January of each year the commissioner shall make assessments of one-twentieth of one per cent of the average guaranteed deposits of each bank until the cash fund accumulated amounts to $500,000. The commissioner may make additional assessments of the same size not more than five in any one year. If a bank fails, the bank commissioner takes charge and winds up its affairs. He issues to each depositor a certificate bearing 6 per cent interest. Any balance due after assets are exhausted is payable out of the guaranty fund. Deposits otherwise secured do not participate, nor a bank's obligation as indorser upon bills re-discounted, nor bills payable, nor money borrowed from its correspondents or others.

Banks are prohibited from advertising that deposits are guaranteed by the State but are permitted to advertise that deposits are guaranteed by the Bank Depositors' Guaranty Fund.

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

Bills of Lading. These are governed by the common law.

Chattel Mortgages. A mortgage of personal property, where the property is not immediately delivered to the mortgagee who retains actual and continuous possession thereof, is void as against creditors of the mortgagor and as against subsequent purchasers and mortgagees in good faith, unless the mortgage, or a copy thereof, is filed in the office of the register of deeds in the county where the property is situated, or if the mortgagor is a resident of the state, then of the county of which he is at the time a resident. A mortgage so filed is invalid after two years unless within thirty days next preceding such two years and each two years thereafter the mortgagee, his agent or attorney, makes an affidavit exhibiting the interest of the mortgagee in the property, and files the same in the same manner as the mortgage. In case of default the mortgagee may sell upon ten days notice.

A mortgage of exempt personal property is invalid unless executed jointly by husband and wife where that relation exists.

Collaterals. Governed by the common law on Bailments and Pledge.

Conditional Sales. Conditional contracts, by which the ownership remains in the party proposing to sell until the purchase price is paid, are treated as chattel mortgages and must be filed in the office of the register of deeds in the same manner as such chattel mortgages but remain in force without the renewal affidavit required in chattel mortgages.

Contracts. All contracts which, by the common law, are joint only, shall be construed to be joint and several. The use of private seals in written contracts (except seals of corporation) is abolished.

Conveyances. (See Deeds.)

Corporations. Corporations are formed under a general statute. Prospective corporations must apply to the charter board for a charter. A $25 application fee must accompany an application. Charter fee is one-tenth of one per cent of its authorized capital stock upon the first $100,000; one-twentieth of one per cent on all in excess of $100,000. Forms for applications and charters furnished by the Secretary of State. Every corporation must commence active operations within one year after filing its charter with the secretary of state; failure to do so works its dissolution. Duration of charter is fifty years. No corporation (except railroad, banking, and building and loan), can commence business until it file with the secretary of state an affidavit made by its president and secretary setting forth that not less than 20 per cent of its capital stock has been paid in actual cash, or property equivalent thereto. 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. The annual statement shall be made by each corporation for profit in the month of February of each year, showing a complete detailed statement of the condition of such corporation, on the 31st day of December next preceeding. Failure to file this report within ninety days from time fixed works a forfeiture of the charter, and a penalty of $5 for each day the report is delayed. The capital stock can be increased to an amount not exceeding three times the original amount fixed in the charter and to any further amount of bona fide fully paid up capital. Capital stock may also be decreased. Preferred stock can be issued if all the holders of common stock consent. Dividends can not be declared from any source other than that which results from profits. The corporation can borrow money not to exceed the amount of its capital stock.

Costs. (See Actions.) Corporations (except banks, insurance, building and loan companies and those not organized for profit) must pay an annual franchise tax on paid-up capital as follows: Not over $10,000, $10; over $10,000 and not over $25,000, $25; over $25,000 and not over $50,000, $50; over $50,000 and not over $100,000, $100; over $100,000 and not over $250,000, $125; over $250,000 and not over $500,000, $250; over $500,000 and not over $1,000,000, $500; over $1,000,000 and not over $2,000,000, $1,000; over $2,000,000 and not over $3,000,000, $1,500; over $3,000,000 and not over $5,000,000, $2,000; over $5,000,000, $2,500.

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 each month 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. The supreme court is the court of last resort.

Creditors' Bills. Creditors may bring an action in the nature of a creditors' bill to marshal assets or set aside fraudulent conveyances as in other states.

Days of Grace. Abolished.

Deeds. No particular forms of conveyances are prescribed. As a rule the form used in other States is sufficient. 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. 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 acknowledgment 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. 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.

Deeds of Trust in the nature of mortgages are not used so far as sale by the trustee is concerned. (See Trusts, etc.)

Depositions. Depositions are taken upon notice to the opposite party. Courts are also authorized to appoint commissioners to take depositions. The depositions may be taken before any person authorized to take acknowledgments. 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 and national holidays not being regarded. 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. 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 magistrate's certificate.

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, and not necessary to pay debts goes to the wife in fee simple: except of land sold by husband whose wife never

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resided in the State. Remaining estate goes to the surviving children, and living issue of prior deceased children, 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. Personal property descends in the same way as real estate. Property descending by law or will is subject to an inheritance tax, varying in percentage according to relationship and amount. (See Exemptions.)

Dower. Dower is abolished by law. (See Descent and Distribution.)

Evidence. (See Testimony.)

Executions may be ordered as soon as judgment is obtained. There is no stay of execution in the district court. 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. Real estate sold on execution or order of sale, giving the debtor eighteen months in which to redeem. The debtor is entitled to possession of the property during the period provided for redemption.

Exemptions. Homestead of 160 acres of farming land, or of one acre within an incorporated town or city, with buildings thereon, unlimited in value. All household goods and wearing apparel; 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 or 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, but 10 per cent of such earnings may be required to be paid in and applied on the judgment.

Foreign Corporations. A foreign corporation doing business in this State must file a certified copy of its charter with the secretary of state and pay to the state treasurer the same fees upon the amount of capital invested or used in this state as a domestic corporation, when it receives a certificate authorizing it to do business and is then subject to substantially the same provisions, judicial control, restrictions, and penalties as a domestic corporation. Annual statements must be filed in February, giving condition on the 31st of December preceding. If a foreign corporation fails to file with the secretary of state the statement required by law within ninety days after the time provided for, its right to do business in the State is thereby forfeited. A penalty is imposed of $5 for each day this report is delayed. Foreign corporations must pay an annual franchise tax on that portion of their capital represented by its property and business in Kansas on the same basis as domestic corporations.

Fraud. (See Attachments, Arrest, and Assignments.)

Garnishment. At or after the time of beginning an action to recover damages founded upon contract, judgment or decree, or after the issuance of an execution and before it is returned, if the plaintiff cause to be filed with the clerk an affidavit stating the amount of his claim over and above all offsets, that he believes that some person, naming him, indebted to, or has property in his possession or under his control belonging to the defendant, and that such defendant has no property liable to execution sufficient to satisfy his debt, and that the indebtedness or property so held is not by law exempt from seizure or sale upon execution, the clerk shall issue a garnishment summons.

Guaranty Companies. (See Trust Companies.)

Holidays. January 1st, February 22d, May 30th, July 4th, first Monday in September (Labor day), December 25th, and Thanksgiving Day. If any of these fall on Sunday the Monday following is a holiday.

Husband and Wife. (See Married Women.)

Injunctions. Injunctions may be granted by a district court or by the judge thereof at the beginning of an action or afterwards, in his discretion. A bond must be given to protect the defendant against any loss in case the injunction is wrongfully obtained. In the absence of the judge from the county the probate judge may grant temporary injunctions.

Insolvency. (See Assignments.)

Interest. Legal rate, 6 per cent, but 10 per cent may be agreed upon. Excess of 10 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 10 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.

Judgments. Judgments of courts of record are liens on the real estate of the debtor within the county from the first day of the term at which the judgment was rendered; but judgments by confession and judgments rendered at the same term during which the action was commenced are liens only from the day on which the judgment was rendered. Judgments lose their priority over subsequent judgments unless execution is issued and levied within one year after judgment. A certified copy of the judgment may be filed in the office of the clerk of the district court of any other county and the judgment will then be a lien on real estate in that county, but execution can only issue from the court in which the judgment is rendered.

Jurisdiction. (See Courts.)

License. Agents of insurance companies are required to take out licenses from the superintendent of insurance. Cities are authorized to enact license ordinances and certain classes of business are required to take out a license.

Liens. Mechanics, material-men, and laborers are entitled to obtain liens upon real estate for labor performed or material furnished in the erection or repair of any building. Statements as to the amount of the claim, for what it was rendered and by whom must be filed in the office of the clerk of the court. Livery-stable keepers, forwarding merchants and common carriers have liens. (See Judgments.)

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 guardians, within five years after the deed is recorded. Other actions for recovery of real property, within fifteen years. 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. Action for libel, slander, malicious transaction, or false imprisonment upon a suit for penalty or forfeiture, one year. Action for any other relief not before provided for, five years. 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, 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.

Mines and Mining. The law provides for the appointment of a mine inspector with authority to require mine owners to provide certain facilities for the health and safety of persons employed and compel proper ventilation, regulate excavations, air courses, etc.

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. 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. By an act of the Legislature which took effect May 18, 1893, real estate sold under foreclosure of mortgage is subject to eighteen months redemption. If the mortgage foreclosed is for the purchase money six months only is allowed for redemption. This act does not apply to mortgages executed prior to the date the act took effect. When a mortgage is assigned the assignment should be acknowledged and recorded. If the assignment was executed prior to March 15, 1899, it can be recorded whether acknowledged or not, and under the laws must be recorded within four months from that date or payment to the recent owner of the mortgage will be a complete defense to an action thereon. (For Forms, see Deeds: see Executions.)

(For Mortgages on Chattels, see Chattel Mortgages: see Executions.)

Notaries. Notaries are appointed by the Governor and serve for four years. They give bond in the sum of $1,000 and are required to affix the date of the expiration of their commission to all certificates.

Notes and Bills of Exchange. Negotiable Instrument Act took effect June 8, 1905.

Partnerships. Limited or special partnerships may be formed for any legal purpose except banking or insurance. Such partnerships may consist of one or more persons who are general partners, and one or more who contribute a specific amount of capital and shall be called special partners. The special partners are not liable for the debts of the partnership beyond the amount contributed by them respectively but the names of the special partners must not be used in connection with the business. Such a partnership is formed by executing a certificate stating the name, the nature of the business, the names of the general and special partners, and their place of residence, and the amount of capital contributed by each special partner, and the period when the partnership is to commence and when it will terminate. The certificate must be acknowledged and filed and recorded in the office of the county clerk.

Power of Attorney. (See Deeds.)

Probate Law. (See Administration.)

Protest. (See Notes and Bills.)

Records. (See Deeds.)

Redemption. (See Mortgages.)

Replevin. The plaintiff in an action to recover the possession of specific personal property may claim the immediate delivery of the same by filing affidavit and giving bond. Property replevined must be held by the officer taking it twenty-four hours, during which time the party from whom the property is taken may give bond to the plaintiff for not less than double the amount of the value thereof conditioned for the return of the same or its value in case it shall be adjudged the plaintiff is entitled thereto, and thereupon may have the property returned to him.

Service. All service of process is made by the sheriff or by constables, or by some one specially authorized in any particular case, and must be issued in the name of the state with the seal of the officer issuing the same affixed.

Suits. (See Actions.)

Taxes. One-half the annual levy for taxes becomes due December 20, and if not paid the whole amount becomes due and there is a penalty of five per cent added. If the whole amount is paid there is a rebate of 5 per cent on the last half. If not paid by June 20 of the succeeding year, another 5 per cent penalty is added. When the tax upon real estate is delinquent, it is sold for taxes on the first Tuesday in September following. After sold it bears interest at the rate of 15 per cent per annum and the same rate upon subsequent taxes paid and indorsed on the tax certificate. The tax lien attaches to real estate on November 1, in the year in which the tax is levied. After land is sold for taxes, it may be redeemed within three years from date of sale. The interest of a minor may be redeemed at any time within one year after he attains his majority, and idiots and insane persons may redeem within five years after the sale.

Trust Companies. Trust companies may be organized with a capital of not less than $100,000, and may receive moneys in trust and execute any trust committed to them, either by any person or by order of any court, and may execute or guarantee any bond required by law to be given in any proceeding in court, and act as agent for the investment of money and for the purpose of issuing, registering, transferring or countersigning certificates of stock, bonds or other evidences of debt, act as guardian and guarantee the fidelity and performance of duty of persons holding public offices or private trusts, and certify and guarantee title to real estate and sell all kinds of negotiable paper, and receive deposits from banks and other trust companies or public officers. They are required to keep on hand 25 per cent of deposits subject to check and 10 per cent of time deposits, in the same manner as state banks. Each director must be a stockholder in the sum of not less than $1,000. Trust companies are under the supervision of the bank commissioner and subject to his examination.

Trusts and Powers. All trusts concerning lands must be created in writing except such as arise by implication of law.

Warehouse Receipts. Practically the Uniform "Warehouse Receipts Act."

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Wills. Any person of full age and sound mind and memory, having an interest in real or personal property, may give and devise the same to any person by last will and testament lawfully executed, subject, nevertheless, to the rights of creditors. 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. Wills executed without the State in the manner prescribed by the law either of the place where executed or of the testator's domicile are declared legally executed. 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. Every will, when admitted to probate, shall be filed in the office of the probate court and recorded.

SYNOPSIS OF

THE LAWS OF KENTUCKY

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by HARRISON & HARRISON, Esq.,
Attorneys at Law, Louisville.
(See Card in Attorneys' List.)

Acknowledgments. Deeds executed within the State may be acknowledged before the clerk of a county court or a notary public, or may 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; if 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, the officer may simply certify that the deed was acknowledged before him, and when it was done.

Actions. Actions 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 a warning order to be issued thereon. Non-residents and corporations, other than banks, created by laws of this State, are required to give security for costs.

Administration of Estates. Personal estates of deceased persons must be administered by the executors named in the will, or if these refuse to qualify, or none are named, then by an administrator appointed by the county court of the county in which the decedent resided at the time of his death. Administrators and executors are required to give bond for the faithful performance of their duties and with surety unless otherwise directed by the will. They are required to file an inventory of the estate within three months and to make settlement within two years from the date of qualification.

Affidavits. An affidavit may be read to verify a pleading, to prove the service of a summons, notice, or other process, in an action; to obtain a provisional remedy, an examination of a witness, a stay of proceedings or a warning order; or, upon a motion. An affidavit may be made: 1. In this State, before a judge of a court, or a justice of the peace, notary public, clerk of a court, or master-commissioner. 2. Out of this State, before a commissioner appointed by the governor of this State; or before any other person empowered by a commission directed to him by consent of the parties or by order of the court; or before a judge of a court, a justice of the peace, a mayor of a city, or notary public.

Appeals. Appeals may be taken from a justice's court to the quarterly court regardless of the amount in controversy; from the quarterly court to the circuit court when the value in controversy, exclusive of interest and costs, exceeds $25; from the circuit court to the court of appeals as a matter of right in all cases in which the title to land, or the right to an easement therein, or the right to enforce a statutory lien is directly involved, and in all cases when the value in controversy, exclusive of interest and costs, amounts to $500 or more, but when such amount in controversy exceeds $200 and is less than $500, the party deserving the appeal, may upon payment of the tax and filing the record in the clerk's office of the Court of Appeals, enter a motion that the appeal be granted. If the court upon examination of the record decides the appeal should not be granted, the motion shall be overruled without a written opinion, and no petition for a rehearing will be entertained, but if the court should be of opinion the ends of justice require the judgment be reversed then the appeal will be granted and a written opinion will be filed. No appeal lies to the court of appeals from any judgment of a quarterly, city, police, fiscal or justice's court, nor from any judgment of the county court.

Arbitration. All controversies which might be the subject of a suit may be submitted to the decision of one or more arbitrators, or two and their umpire. The submission may be in writing or by entry of record, and the agreement of submission shall be binding on the parties thereto, if it states the matter to be submitted and who are to be the arbitrators. Each arbitrator and the umpire, if one be chosen, shall take an oath to decide the matter in controversy fairly and impartially according to law, justice and the equity of the whole case. The award must be in writing signed by each arbitrator and the umpire, if any, and shall be a final settlement of the controversy between the parties. A copy of the award must be given within a reasonable time and shall be binding upon both.

Arrest. An order for the arrest of the defendant shall be made by the court in which the action is brought or pending, at its commencement, or at any time before judgment, if an affidavit of the plaintiff be filed in his office showing: 1. The nature of plaintiff's claim. 2. That it is just. 3. The sum or value, which the affiant believes the plaintiff ought to recover. 4. That the affiant believes, either that the defendant is about to depart from this State and with intent to defraud his creditors has concealed, or moved from this State, his property, or so much thereof that the process of the court after judgment can not be executed; or that the defendant has money, or securities for money, or evidences of debt, in the possession of himself, or of others for his use, and is about to depart from this State without leaving property therein sufficient to satisfy plaintiff's claim.

Assignments and Insolvency. Subject to National Bankrupt Law. Every voluntary assignment made by a debtor to any person in trust for his creditors shall be for the benefit of all the creditors of the assignor, in proportion to their respective claims, after the payment of the expenses of the trust; except that property conveyed by the deed of assignment, and upon which there is a valid lien, shall be applied first to the discharge of the lien debt; and except that debts due by the assignor as guardian, committee, trustee of an express trust created by deed or will, or as personal representative, shall be paid in full before the general creditors receive anything. The intent of the assignor in making the deed of assignment shall not invalidate the deed, unless he be solvent, and it appear that the assignment was made to hinder or delay creditors. The deed vests in the assignee the title to all the estate, real and personal, belonging to the assignor at the time of making the assignment, except that property exempt by law shall not pass unless embraced in the deed. If the assignor, before making the deed, shall have made a preferential or fraudulent transfer, conveyance, or gift of any of his property, or fraudulent purchase of any property or the name of another, the property so fraudulently transferred, conveyed, or purchased shall vest in the assignee, and it shall be his duty to institute such proceedings as may be necessary to recover same. If, upon demand, he refuses to do so, any creditor may, and the property so recovered shall become a part of the estate, and be distributed as other assets. If creditors representing one-half in number and two-thirds of the amount of debts against the estate shall so request in writing, the court shall remove the assignee and appoint another in his stead.

Attachments. The writ may issue against a defendant who is a foreign corporation or non-resident of the State; or has been absent from State four months; or has left the State with intent to defraud creditors; or has left his county to avoid service of summons; or so conceals himself that summons cannot be served; or is about to remove, or has removed his property or material part out of the State not leaving enough to satisfy claim of plaintiff or defendant's creditors; or has disposed or is about to dispose of or sell his property, or permitted to be sold or disposed of with fraudulent intent to cheat hinder or delay creditors. Also in action for money due upon contract judgment or award, if defendant have no property in State subject to execution, or not enough to satisfy plaintiff and collection will be endangered by delay in obtaining judgment and return of nulla bona. Also in action for personal property ordered to be delivered to plaintiff which as part thereof has been disposed of, removed, or concealed, so that order of delivery can not be executed. Affidavit as prescribed by civil code and bond required, except no bond required in action upon nulla bona return.

Banks. It is unlawful for any person or persons, either as individuals or co-partners to engage in or conduct the business of private banking in this commonwealth. Corporations may be organized to conduct both a banking and trust company business. The boards of directors of banks and trust companies doing business in this State have full power and authority to fix the hours of opening and closing of said banks and trust companies, and may provide that on Saturday of each week such hour of closing be as early as twelve (12) o'clock noon. A Department of Banking, providing for a Banking Commissioner, deputy commissioner and examiners of State banks, and prescribing their duties and for the examination of all financial institutions organized and doing business under the laws of the State was created by a law effective July 1st, 1912.

Chattel Mortgages and Deeds of Trust. No deed of trust or mortgage, conveying a 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. It is a penal offense, punishable by fine and imprisonment, for any person to sell any personal property, on which there is a mortgage of record, with the intent to prevent the foreclosure of the mortgage and a sale of the property.

Checks. The issuing of checks in this State upon banks where the drawer has not sufficient funds on deposit to pay same is now a criminal offense. If amount under $20.00 it is a misdemeanor, and the penalty $100.00 or jail confinement one to thirty days, or both such fine and imprisonment in discretion of the Court or Jury. If the check be for $20.00 or more, it is a felony and confinement in penitentiary for not less than one or more than two years, but if the drawer of the check shall pay same within twenty days after receiving notice of the dishonor of the check, he shall not be prosecuted; or if the prosecution has been begun, it shall be dismissed at cost of the maker of the check.

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.

Conveyances. (See Acknowledgments.)

Corporations formed under the general laws for transaction of any lawful business. Special regulations prescribed for foreign corporations doing business in the State, and for banking, building and loan, trust, insurance, and railroad companies. Cumulative voting prescribed. Stockholders in banks, trust companies, guaranty companies, investment companies and insurance companies are liable equally and ratably, and not one for the other, for all contracts and liabilities of corporation to extent of the amount of their stock at par value in addition to amount of such stock; but persons holding stock, as fiduciaries, are not personally liable, but estates in their hands are in same manner and to same extent as other stockholders, and no transfer of stock operates as a release, of any such liability, existing at time of transfer, provided action to enforce the liability be commenced within two years from time of the transfer. Articles acknowledged and recorded like deeds in county in which 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 payment to State of license tax of one-tenth of 1 per cent on its capital stock, corporation is deemed organized; but, before transacting business other than with its own stockholders, at least 50 per cent of stock must in good faith be subscribed, payable at such times as board of directors may require.

Courts. General civil and criminal jurisdiction is vested in circuit courts which hold terms in each county as provided by statute.

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Credits. By an Act approved March 14, 1914, it is provided that a person who shall knowingly in person or through any agency make any false statement in writing with intent it shall be relied upon, respecting his financial condition, or means or ability to pay, for the purpose of procuring delivery of personal property, the payment of cash, the making of a loan or credit, or extension of credit, and procures upon faith thereof either or any of the things or benefits mentioned, shall be guilty of a felony and upon conviction, shall be confined in the penitentiary not less than one nor more than five years.

Days of Grace. (See Notes and Bills of Exchange.)

Depositions may be taken in all equitable actions, and in ordinary or common law actions, where witness resides twenty miles or more from place where court is held, or is absent from State, and in many other cases enumerated in the statute where the witness is privileged. Depositions are taken either on notice to opposite party or upon written interrogatories. The ordinary method of taking is upon notice, but where 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 court, the party receiving notice may require deposition to be taken upon interrogatories by giving notice to that effect to adverse party or his attorney upon same day, or day following one upon which first notice was served. Except in divorce cases, depositions are required to be taken upon interrogatories, if all 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. Officers authorized to take depositions in this State: An examiner appointed by judge of circuit court of this district, a judge or clerk of a court, justice of peace, or notary public. Depositions may be taken out of this State before a commissioner appointed by governor of this State or before a judge of a court, a justice of peace, mayor of city, notary public, or any other person empowered by a commission issued to him by consent of the parties or by order of court. If deposition is taken upon interrogatories neither party is allowed to be present, either in person or by agent 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 officer's presence, or was written by officer in presence of witness and read to and subscribed by witness in presence of officer.

Descent and Distribution of Property. The real estate of a person dying intestate shall descend in parcenary to his kindred, male and female, in the following order, viz: (1) To his children and their descendants; if none, then (2) to his father and mother equally if both be living; if either be dead, the whole estate descends to the one living; if both be dead, then (3) to his brothers and sisters and their descendants; if none, then (4) one moiety of the estate shall pass to the paternal and the other to the maternal kindred, in the following order: (5) to the grandfather and grandmother, or whichever may be living; if both are dead, then (6) to uncles and aunts and their descendants; if none, then (7) to great grandfather and great grandmother, and so on in other cases without end, passing to the nearest lineal ancestors and their descendants. (8) If there is no kindred to one of the parents, the whole shall go to the kindred of the other. If there is neither paternal nor maternal kindred, the whole shall go to the husband or wife of the intestate, or if he or she be dead, then to his or her kindred as if he or she had survived the intestate and died entitled to the estate. When any or all of a class first entitled to take are dead, leaving descendants such descendants shall take per stirpes, that is to say, by representation, the shares of their respective deceased parents. Collaterals of the half blood shall inherit only half so much as those of the whole blood. In making title by descent, it shall be no bar to a party that any ancestor, through whom he derives his descent from the intestate, is or has been an alien. Bastard can inherit in the descending line only from the mother and her kindred, and can transmit inheritance in the ascending line only to the mother and her kindred.

Dower. (See Husband and Wife.)

Executions may issue upon judgment any time until collection of it is barred by limitation, but no execution shall issue on any judgment, unless ordered by the court, until after ten days from rendition. Execution constitutes lien on property of debtor from time it reaches hands of proper officer. Execution may be replevied for three months, any time before sale under same, by defendant giving to the officer an obligation (replevin bond) payable to plaintiff, with good security for the amount thereof, interest and costs. A judgment to enforce a lien cannot be replevied. No replevy allowed upon judgment against any collecting officer, attorney at law, or agent, for a delinquency or default in executing or fulfilling 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 judgment for specific property, or for the property, or its value. If land sold does not bring two-thirds of appraiser's valuation, defendant and his representatives have right to redeem within a year from the day of sale, by paying purchaser or his representatives original purchase money and ten per centum per annum interest.

Exemptions. The following property of persons with a family resident in this Commonwealth, shall be 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 seventy-five dollars in value; two saddles and their appendages; two bridles; six chairs; or so many as shall not exceed ten dollars in value; one cradle; all the poultry on hand; ten head of sheep, not to exceed twenty-five dollars in value; all wearing apparel; sufficient provisions, including breadstuff and animal food to sustain the family for one year; provender suitable for live stock, if there be any such stock, not to exceed seventy dollars 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 fifty dollars 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 twenty-five dollars; ninety per centum of the salary, wages, or income earned by labor, of every person earning a salary, wages, or income of seventy-five dollars or less per month, provided that the lien created by service of garnishment, execution, or attachment, shall only affect ten per centum of such salary, wages, or income, earned at the time of service of process; of the salary, wages, or income earned by labor, of every person earning a salary, wages or income in excess of seventy-five dollars per month, sixty-seven and one-half dollars per month and no more shall be exempt.

Tools of a mechanic, not exceeding one hundred dollars in value; libraries of ministers of the Gospel, professional libraries of lawyers, professional libraries and instruments of physicians and surgeons, not to exceed in value five hundred dollars. In addition to personal property there is for actual bona fide housekeepers with a family resident in this Commonwealth a homestead exemption of so much land including the dwelling house and appurtenances owned by debtor as shall not exceed in value one thousand dollars. This does not extend to a mortgage on or purchase money due for the land or for debts or liability existing prior to the purchase of the land, or of the erection of the improvements thereon.

Personal property or money on hand or in bank to the amount of $750.00 shall be exempt from distribution and sale and shall be set apart by the appraisers of the estate of an intestate to his widow and children, or, if no widow, to his infant children or child surviving him. The appraisers shall state in their appraisement the money or the articles and value of each set apart by them to the widow, or infants, separately to the articles appraised for sale, but if the widow be present at the time of the appraisement, or any one authorized by her in writing, she may make her selection out of the property appraised to the amount of said $750.00 and said appraisers shall so report. The provisions of this section shall apply to cases where the husband dies testate, and the widow renounces the provisions of the will in the time prescribed by law.

Holidays. The 1st day of January, the 22d day of February, the 30th day of May, the 4th day of July, the first Monday in September (Labor Day), the 12th day of October (Columbus Day), the 25th day of December of each year, and all days appointed by the president of the United States, or by the governor of this State, as days of fasting and thanksgiving are declared holidays, and shall be treated as Sunday. If any of those days named as holidays shall occur on Sunday, the next day thereafter shall be observed as a holiday.

Husband and Wife. By an act which took effect June 12, 1894, the following important changes were made in the common law of coverture which theretofore prevailed in Kentucky. Marriage gives to the husband during the life of the wife no interest in any of the wife's property. She has full power to contract and to bind herself and her property, except that she can not bind herself to answer for the debt, default, misdoing of another, except as to property set apart for that purpose by mortgage. She may sell and dispose of personal property as if unmarried, but may not sell or convey real estate unless her husband unites in the contract, or conveyance, unless empowered to do so by decree of court in case of insanity, conviction of felony, or abandonment by the husband. After the death of either husband or wife the survivor shall have a life estate in one-third of all the realty of which the decedent was seized in fee simple during the coverture unless such right shall have been forfeited or relinquished. Such survivor has also one-half the personalty of the decedent left after the payment of debts. Abandonment and living in adultery by either party, or divorce works a forfeiture of these rights.

Interest. The lawful rate of interest is 6 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 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 merchant's accounts for goods sold. One year: Actions for injury to person or character and for breach of promise of marriage.

Notes and Bills of Exchange. An act relating to negotiable instruments became a law June 13, 1904. Section 1 declares that an instrument to be negotiable must conform to the following requirements. (1) It must be in writing and signed by the maker or drawer. (2) Must contain an unconditional promise or order to pay a sum certain in money. (3) Must be payable on demand, or at a fixed or determinable future time. (4) Must be payable to the order of a specified person or to bearer. (5) Where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty. Days of grace are abolished. The signature of any party may be made by an agent duly authorized in writing. Every negotiable instrument is payable at the time fixed therein; when the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day.

Powers of Attorney. Powers of attorney to convey real or personal property may be acknowledged, proved and recorded in the proper office in the manner prescribed for recording conveyances. If the conveyance made under a power, is required by law to be recorded or lodged for record to make the same valid against creditors and purchasers, then the power must be lodged or recorded in like manner.

Protest. Where any negotiable instrument has been dishonored it may be protested for non-acceptance or non-payment as the case may be; but protest is not required, except in the case of foreign bills of exchange. It is the safer practice to protest in all cases.

Taxation. Taxes due the State by banks and trust companies are payable directly into the State treasury on or before the first day of July succeeding reports by their chief officers required to be made to auditor of public accounts, and taxes to counties, cities, towns and districts are paid at the time fixed by law for payment of like taxes.

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. The county court has exclusive original jurisdiction over the probate of wills.

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SYNOPSIS OF

THE LAWS OF LOUISIANA

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by Messrs. MERRICK, GENSLER & SCHWARZ,
Attorneys at Law, New Orleans.
(See Card in Attorneys' List.)

Accounts. (See Acknowledgments.)

Acknowledgments of deeds executed within the State may be made before a judge, notary public, parish recorder or his deputy, in the presence of two witnesses. These witnesses must be over fourteen 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. 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 other states any oath or acknowledgment made before a notary public, duly appointed in such states, when certified under the hand and official seal of such notary, shall have the same force and effect without further proof of the signature, seal and official character of such notary, as if taken or made by or before a Louisiana commissioner residing in such State. Act 140 of 1896. In foreign countries every deed, conveyance, mortgage, sale, etc., made or taken before any ambassador, minister, chargé d'affaires, secretary of legation, consul-general, consul, vice-consul, or commercial agent, and every acknowledgment, attestation, or authentication of any of said instruments, oaths, etc., made by any of said officers under their official seals and signatures shall have the full force and effect of an authentic act executed in this State. No witnesses necessary. Party appearing before any of said officers need not be a resident of the place where said officer is located. Notarial copies of original when deposited in this state in a notary's office have full force and effect of authentic copies of acts executed in this State. [Act 164 of 1898.]

Actions. Commenced by petition setting forth cause of action, signed by plaintiff or his attorney and duly sworn to. Plaintiff must give resident security for costs or make deposit to cover same if demanded. (See Act 300 of 1914 regulating pleadings and practice.)

Administration of Estates by executors, administrators, or tutors who are ex-officio administrators—also by dative executors—where there is no heir present or agent of heir, public administrator takes charge. A non-resident executor of a will must in all cases give bond; a resident does not unless required by creditors. Administrators and executors of other states must open succession of deceased in the courts of this State, and be recognized as such here before they can sue or be sued or transfer property in this State. Stock in local corporations may be transferred by non-resident, executors, etc., without the necessity of securing an order from the local court, but no transfer can be made until the inheritance tax is adjusted.

Affidavits. (See Acknowledgments.)

Aliens. There is no law excluding them from buying or holding lands. They are only excluded from voting.

Arbitration. Agreements to submit to arbitration recognized by law. Arbitrators must be sworn, otherwise decision is not binding. State board of arbitration of labor troubles established. [Act 139 of 1894.]

Arrest for debt may be made on affidavit that the debt is really due, and that petitioner verily believes that debtor is about to remove from the State permanently, without leaving in it sufficient property to satisfy his demand; and that he does not take his oath with intention of vexing debtor, but only in order to secure his demand. Debtor may be discharged by disproving facts; by giving bond, by making surrender, by delivering to sheriff property sufficient to satisfy demand. Arrest of the debtor only secures his presence to answer the suit; he cannot be held for the payment of the debt. Minors, interdicted person and women not subject to arrest for debt.

Assignments and Insolvency. State insolvent laws superseded by National Bankruptcy act.

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. (Act No. 7, 1888.) Garnishment may be had as an accessory either to a writ of attachment or fieri facias.

Banks. Banking corporations organized under banking laws adopted in 1855, amended in 1888, in 1892, and in 1902. Savings, deposit, and trust companies provided for by Act 150 of year 1888, amended by Act 95 of 1892, which is now amended by Act 189 of 1902. The number of persons organizing must exceed five. No special act of incorporation can be passed. By Act 189 of 1902, the general banking act of 1855 and the amendary acts of 1888 and of 1892 are amended as follows: 1. Period of time must be fixed in act not to exceed ninety-nine years. 2. Banks can not hold real estate for longer time than five years, except such as 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. In incorporated towns with less than 20,000 inhabitants must have cash capital of not less than $30,000, which must be paid up before can commence business. It may be made a receiver, trustee, assignee or syndic, and execute trusts of every description. Money or other valuables deposited by married women or minors may be drawn out without the authority of their husbands or tutors. Under Act 45 of 1902, banks organized to do a savings, safe deposit and trust banking business must be composed of more than five persons, may be organized for not longer than ninety-nine years, may not hold real estate for longer period than ten years, except such as is held as agent or trustee, or necessary for transaction of their business; may accept and execute trusts or agencies of all descriptions, may be appointed by any person or by court executor, administrator, syndic, receiver, curator, tutor, trustee or assignee. Capital stock considered as security for faithful performance of duty, though court may require other security, and may require the state examiner of banks to investigate the affairs and management of the bank. Such banks can not issue notes and must have a capital not less than $100,000, which must be paid up in cash. (See Act 121 of 1910, amending Act 45 of 1902 as to capital required in cities of less than 30,000.) (See also Act 179 of 1902, and amendment thereof, Act 140 of 1906 and amendment thereof Act 152 of 1910 and amendment thereof Act 96 of 1912.) Act 238 of 1910, amending Act 45 of 1902, provides for branches. Act 112 of 1910 creates a State Banking Department having supervision over all state banks. Amended by Act 48 of 1912.

Chattel Mortgages not legal in this State except as to lumber, logs, live stock, vehicles of all kinds, all kinds of machinery, all well casing, line pipes, drilling rigs and tanks. These may be mortgaged but the mortgage on such properties not legal unless it is owned by the mortgagor in excess of movable property granted him and exempted from seizure under Act 244 of the Constitution of 1898. (See Act 65 of 1912, amended by Act 155 of 1914.)

Collaterals. must be delivered to be effelctual. Act 9, of 1914 makes it a felony for a customer of bank to wrongfully dispose of collateral security pledged to bank. Uniform Bills of Lading loss obtains. (Act 94 of 1912.)

Conveyances. All agreements affecting real property must be in writing, and transfers and mortgages, etc., must be recorded in the place where the property is situated to affect the rights of third persons. Deeds are made under private signature or by act passed before a notary public in the presence of two witnesses. Both vendor and vendee sign, though signature of vendee is not essential, as any act of acceptance will answer. The notary in Parish of Orleans preserves the originals of deeds passed before him and certified copies given by him are received as evidence in the courts. Every notarial deed should contain (1) date of act and place where it was passed, (2) names and surnames and qualities of contracting parties, (3) description of the property, etc., (4) price of transfer and terms and conditions. (5) The marital status of all parties must be given. When a married woman executes a deed she must be authorized by her husband. The husband acts alone in the sale of community property; the signature of the wife being unnecessary.

Corporations. 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. 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. Corporation committing a trespass or damage may be sued at place where it occurred. [Act 22 of 1894.] All corporations hereafter organized must have their charters, etc., recorded in the office of the secretary of state. [Act 59 of 1898.] (See act 154 of 1902 for formation of corporations for works of public improvement.) Act 120 of1902 provides for organization, etc. of local and foreign building and loan or homestead associations. Three or more persons may form a corporation to carry on any business specified in charter that would be lawful for any individual to carry on. May carry on any named business or different branches of business, whether related or not. Must have capital of not less than $3,000. [Act 78 of 1904.] No corporation can declare dividends out of its capital stock, under penalty of forfeiture of its charter. Meetings of corporations must be held at domicile (Act 63 of 1910).

Foreign Corporations may be licensed and taxed by a mode different from that provided for home corporations. No domestic or foreign corporations shall do any business in this State without having one or more known places of business and an authorized agent or agents in the State upon whom process may be served. All corporations (except mercantile corporations) domiciled out of the State and doing business in the State in default of filing with the secretary of state a declaration of the place of its locality or domicile together with the name of its agent in the State upon whom service of process may be made, may be sued upon any cause of action in any parish where the right of action arises.

Foreign corporations must file in office of secretary of state a written declaration setting forth and containing the place or locality of its domicile, the places in the State where it is doing business, and the name of its agent or other officer in this State upon whom process may be served. (Act 54 of 1904 amended by Act 284 of 1908. Act 284 of 1908 amended by Act 243 of 1912. See Act 194 of 1912.)

Act 267 of 1914 relating to corporations repealed several previous acts and undertakes to embody in one act all essential details with respect to the organization, power and duties of trading corporations, foreign and domestic. (As to non-trading corporations see Act 259 of 1914.)

Courts. Terms and Jurisdiction. In parishes other than Orleans: 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 and appellate jurisdiction in all civil matters in justices' courts. 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 shall hold continuous sessions during ten months of the year. In parish of Orleans, civil district court sits from October 15th to end of June, but shall remain open on all legal days during the whole year for granting interlocutory orders, issuing writs, trials of rules to quash same, trying proceedings instituted, or on appeal therein by a landlord for the possession of leased property, partition proceedings, and for such special probate and insolvency business, as the court en banc may by rule determine. On all amounts up to $2,000, inclusive, an appeal may be taken to the court of appeals, from the city and district courts respectively, and on all amounts over $2,000, to the state supreme court. An appeal lies on both law and facts. Appeals from the city courts shall be tried de novo.

Days of Grace. Abolished.

Depositions. To take testimony of witness residing out of parish or State it is necessary to file motion duly sworn to showing non-residence and materiality of evidence. Written interrogatories are prepared and served on opposite party, or his counsel, who has three days in which to cross. Commission then issues, directed to some proper officer, with interrogatories and cross interrogatories annexed, who must cause witness to appear before him to answer under oath the

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direct and the cross interrogatories. He should reduce answer to writing, read same to witness and cause witness to sign same. The officer then prepares a process verbal of the whole, attaches it to the commission, interrogatories, etc., and should return same to the court issuing the commission within the time fixed therein for taking the deposition. The deposition of a fugitive from justice is not admissible in evidence. (Also see Act 176 of 1910.)

Descent. If one dies leaving no descendants, but a father and mother and a brother and sister, or descendants of these last, the succession is divided into two equal parts, one goes to father and mother, the other to brothers and sisters or their descendants. If either father or mother of deceased dies before him, the portion which would have been inherited by such deceased parent goes to the brothers and sisters of the deceased, or their descendants. If deceased left neither descendants nor brothers nor sisters, nor descendants from them, nor father nor mother, but only other ascendants, they inherit to the exclusion of all collaterals. If ascendants in paternal and maternal lines are all of the same degree, the estate is divided into two parts, one goes to ascendants on the paternal and the other to ascendants on the maternal side. If there is in the nearest degree but one ascendant in the two lines such ascendant excludes all other ascendants of a more remote degree. If one dies leaving no descendants, and his father and mother survive, his brothers and sisters, or their descendants, take half of his estate. If the father or mother only survive, brothers and sisters, or their descendants, take three-fourths. If one dies leaving no descendants nor father nor mother, his brothers and sisters ,or their descendants, take all the estate. The partition of the half, the three-fourths, or the whole of a succession falling to brotherx and sisters as above set forth, is made equal if they are of the same marriage, if of different marriages the succession is equally divided between the paternal and maternal lines of the deceased. If deceased died without descendants, leaving neither brothers nor sisters, nor descendants from them, nor mother nor father, nor ascendants in the paternal or maternal lines, his succession passes to his other collateral relations, the one nearest in degree excluding the others. When the deceased has left neither lawful descendants nor lawful ascendants, nor collateral relations, the law calls to his inheritance either the surviving husband or wife, or his or her natural children, or the State. If natural mother left no lawful children or descendants, her natural children, acknowledged by her, inherit to the exclusion of her father and mother and other ascendants or collaterals of lawful kindred. Natural children inherit from their natural father, who has acknowledged them, when he has left no descendants nor ascendants, nor collateral relations, nor surviving wife, and to the exclusion only of the State. Donations inter vivos or mortis causa cannot exceed two-thirds of the property of the disposer if he leave at his decease a legitimate child, one-half if he leaves two children, and one-third if he leaves three or more. An inheritance tax is levied upon all inheritances, legacies and donations, provided no direct inheritance or donation to an ascendant or descendant below $10,000 shall be taxed. Tax is 2 per cent on direct inheritances and donations to ascendants or descendants or surviving wife or husband and 5 per cent for collateral inheritances and donations to collaterals or strangers. Bequests to educational, religious or charitable institutions are exempt. Inheritance tax not due when property inherited, bequeathed or donated shall have borne its just proportion of taxes prior to time of such donation, bequest, or inheritance. R. C. C. 915 amended to read "In all cases when either husband or wife shall die leaving no descendants, nor ascendants and without having disposed by last will and testament of his or her share in the community property, such undisposed of share shall be inherited by the survivor in full ownership." (Act 57 of 1910.)

Dower. (See Married Women.)

Execution. Property taken under a writ of fieri facias 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 three times in ten days—of real estate once a week for thirty days. 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. Act 113 of 1906 authorizes sheriffs and constables to put purchaser of seized property in possession.

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 provided the person claiming the benefit of the homestead execute a written declaration of homestead (Acts 1880, No. 114), and no exemption if wife has separate property worth over $2,000. No registry required in parishes other than Orleans. (Operative Jan. 1, 1899.) Widow or minor children surviving is entitled to $1,000 out of deceased husband's estate, if in necessitous circumstances, by preference over even a first-mortgage creditor. Sheriff or constable can not seize linen and clothes of debtor or his wife, nor his bed, nor those of his family, nor his arms and military accoutrements, nor tools and instruments and books, sewing machines necessary for the exercise of his or her calling, trade, or profession, by which he makes a living, the right of personal servitude, of use and habitation, of usufruct to the estate of a minor child, the income of total property, money due for salary of an officer, wages or recompense for personal service (laborers' wages) cooking stove, plates, etc., family portraits, musical instruments played on by family. (Acts 1876, No. 79.)

Fraud vitiates all contracts. Action barred by one year limitation to annual sale on account of fraud. For fraud on part of purchasers of goods see Act 114 of 1912 amending Act 94 of 1896.

Garnishment. Wages earned out of this State and payable out of this State, shall be exempt from attachment or garnishment in all cases where cause of action arose out of this State, and it shall be the duty of garnishees in such cases to plead such exemption unless the defendant is actually served with process. [Act 165 of 1904.] (See Attachment.)

Husband and Wife. (See Married Women.)

Interest. Legal rate is 5 per cent, but 8 per cent may be agreed upon in writing. If higher than 8 per cent is charged, it is reducible to 8 per cent. If paid, it may be sued for and recovered within two years.

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.

Liens or Privileges. The following have special privileges, viz.: 1. Lessor's privilege. 2. Privilege of the creditor on the thing pledged. 3. Privilege of a depositor on the price of a thing deposited. 4. Privilege for expenses incurred in preserving thing. 5. Privilege of the vendor of movable effects so long as they are in the possession of the vendee. 6. Privilege of the innkeeper on the effects of the traveler. Privileges resting upon immovables are as follows, viz.: 1. The vendor on the estate by him sold, for the payment of the price or so much of it as is unpaid, whether it was sold on or without a credit. 2. Architects, undertakers, bricklayers, painters, master builders, contractors, sub-contractors, journeymen, laborers, cartmen, and other workmen employed in constructing, rebuilding, or repairing houses, buildings, or making other works. 3. Those who have supplied the owner or other person employed by the owner, his agent, or sub-contractor, with materials of any kind for the construction or repair of an edifice or other work, when such materials have been used in the erection or repair of such houses or other works. [Art. 3252.] 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. Privilege granted employes in saw mills, etc. (Act 145 of 1888, amended by Act 52 of 1910 and act 23 of 1912.

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 or 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: Action on bills of exchange or promissory notes, counting from maturity, and for nullity of contracts or wills; for recision 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. Prescription does not run against minors or persons under interdiction. Husband and wife can not prescribe against each other.

Limited Partnership. (See Partnership.)

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, except by donation or inheritance 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 or divorce the survivor is entitled to one-half of all property remaining after payment of debts, acquired during marriage, and in case of death, the usufruct of the other half, unless this half is disposed of by will of deceased spouse. Wife cannot be a witness to husband's will.

Monopolies or Trusts are regulated and rights are given against them similar to those existing under Federal Law. The state authorities may take action and the individual may recover threefold damages sustained. See House Bills Nos. 7 and 8, extra session 1915, approved June 10, 1915.

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 except as stated under heading "chattel mortgages." 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.] Lessees obligated to erect buildings, etc., upon leased property, can mortgage the lease, together with the improvements, etc. (Act 21 of 1908.) Leases and contracts to explore for oil, gas and minerals may be mortgaged (Act 232 of 1910).

Negotiable Instruments. "Negotiable Instrument Act" (No. 64 of 1904) changes in many respects the laws formerly applicable to bills and notes. Under it, days of grace, which formerly were customary, are abolished. Instruments are payable to bearer if made payable to the order of a fictitious or non-existing person, when such fact is known to the one making it so payable; when name of payee does not purport to be name of any person; or when the only or last indorsement is in blank. When there is a discrepancy between the words and the figures of an instrument, the sum denoted by the words is the sum payable. Two or more persons signing instrument containing words, "I promise to pay," are jointly and severally liable thereon. Presentment for payment is unnecessary to bind party primarily liable, but is necessary to charge drawer or indorser. Notice of dishonor must be given to drawer and indorser when instrument has been dishonored by non-acceptance or non-payment, otherwise they are discharged. A bill of exchange does not operate an assignment of funds in hands of drawee available for payment thereof, and drawee is not liable till he accepts same. Holder may require acceptance to be written on bill, and if refused may treat the bill as dishonored. An acceptance written on paper other than a bill, and an unconditional written promise to accept a bill before it is drawn, binds the acceptor only in favor of a purchaser for value on faith thereof. Drawee has twenty-four hours to decide whether he will accept or not. A drawee who destroys a bill presented to him for acceptance, or who fails to return the bill within twenty-four hours, is deemed to have accepted the same. Where a signature is so placed upon a negotiable instrument that it is not clear in what capacity the person making same intended to sign, he is deemed an indorser. Foreign bills must be protested for non-acceptance or non-payment. Where a bill does not appear on its face to be a foreign bill, protest thereof in case of dishonor is unnecessary. A check must be presented for payment within a reasonable time or drawer will be discharged from any loss caused by delay. Bank is not liable to holder of a check until it accepts or certifies same. When the last day to do an act required or permitted to be done under the act falls on a Sunday or legal holiday, it may be done on the next succeeding secular or business day. When day of maturity falls on a Sunday or a holiday, the instrument is payable on next succeeding business day. Instruments falling due on Saturday are to be presented for payment on next succeeding business day, except that instruments payable on demand may, at option of holder, be presented for payment before 12 o'clock noon on Saturday when that entire day is not a holiday. If the day or days next succeeding the protest for non-acceptance or non-payment shall be days of public rest or legal holidays or legal half holidays, then the day next following shall be computed as the first day after the protest. "Service of citation shall not be waived, nor judgment confessed, by any document under private signature executed prior to the maturity of the obligation sued on." [Article 91, Constitution 1898.] Acceptance must be in writing and signed by drawee. It must not express that drawee will perform his promises by any other means than payment of money. (Act 189 of 1908.)

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Partnership, Limited and Special. Stipulations that one shall participate in the profits and shall not contribute to losses is void, both as regards partners and third persons. Partnerships are divided as to their object into commercial and ordinary partnerships. Commercial partnerships are such as are formed: 1. For the purchase of any personal property, and the sale thereof either in the same state or changed by manufacture. 2. For buying or selling any personal property whatever, as factors or brokers. 3. For carrying personal property for hire, in ships or other vessels. Ordinary partnerships are all such as are not commercial. There is also a species of partnership which may be incorporated with either of the other kinds, called partnership in commendam. It is formed by contract, by which one person or partnership agrees to furnish another person or partnership a certain amount, either in property or money, to be employed by the person or partnership to whom it is furnished, in his or their own name or firm, on condition, of receiving a share in the profits, in the proportion determined by the contract, and of being liable to losses and expenses to the amount furnished and no more. Partner in commendam cannot bind other partners by his act. Partnership in commendam must be made in writing; must express amount furnished or agreed to be furnished; the proportion of profits which partner is to receive and expenses and loses he is to bear; must state whether it be received in goods or money, etc.: must be signed by parties in presence of at least one witness and recorded in full within six days in mortgage office. If branch houses are established the contract must be recorded in parish where branches are located. If partner in commendam allow his name to be used, or if he take any part in the business of the partnership, he will be liable as a general partner. Ordinary partners are not bound in solido for debts of partnership, and no one of them can bind his partners unless they have given him power to do so; each is bound for his share of the debt in proportion to the number of partners. Commercial partners are each liable for the entire debts of the partnership.

Powers of Attorney. May be written or oral. May be either general for all affairs or special for one affair only. One conceived in general terms confers only power of administration; to sell mortgage or do any other act of ownership, the power must be express and special.

Probate Law. There is no special probate court. District courts are vested with probate jurisdiction. Successions are opened upon petition of interested persons in the parish where the deceased resided, if he had a domicile or fixed place of residence in the state; in the parish where he left his landed property, if he had neither domicile nor place of residence in the state; or in the parish in which it appears from the inventory that his principal property was situated, if he left property in several parishes; in the parish where he died, if he had no certain domicile nor any fixed property. The judge appoints an administrator when deceased leaves no will. Administrators must render annual accounts, and are allowed 2 1-2 per cent on the inventory as commissions. Attorneys at law are appointed to represent absent heirs. Properties acquired during marriage are presumed to be community property, and surviving spouse is owner of one-half. When either husband or wife dies, leaving no ascendants or descendants, and without having disposed by will of his or her share in the community, the survivor holds such share in usufruct during his or her natural life. (See Successions.)

Protest. (See Negotiable Instruments.)

Separation from Bed and Board. May be claimed reciprocally for: 1. Adultery. 2. When spouse condemned to infamous punishment. 3. Habitual intemperance, excesses, cruel treatment, or outrages, when such renders living together insupportable. 4. Public defamation of one spouse by the other. 5. Abandonment. 6. Attempt of one spouse against life of other. 7. When one spouse charged with infamous offense actually flees from justice.

Taxes. 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 5 9-20 mills on the dollar, and parish taxes not exceeding ten mills; city of New Orleans tax 2.02 per cent. Delinquent state taxes bear interest at 2 per cent a month, city taxes, 10 per cent a year.

Wills. There are four different kinds of wills, viz.: The olographic, nuncupative by public act, nuncupative by private act, and mystic (or sealed) will. The olographic will must be wholly written, dated, and signed by the testator, and may be made within or without the State. Nuncupative will by public act as written by a notary in presence of three witnesses, over the age of 16 years complete, not insane, deaf, dumb or blind, residing in the place where will is executed, or five witnesses not residents of the place, at the dictation of the testator. Nuncupative will by private act and mystic wills are subject to many formalities which may be best obtained by reference to Civil Code Arts. 1581-1587 both inclusive. All persons of sound mind over sixteen years of age may dispose of their property by will. Wills executed without the state given force and effect provided same be in writing and subscribed by testator and follows form of place where executed. (See act 176 of 1912.)

SYNOPSIS OF

THE LAWS OF MAINE

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by SYDNEY B. LARRABEE,
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(See Card in Attorneys' List.)

Acknowledgments. (See Deeds.)

Actions. At law begun by writ, under common law practice, but containing declaration. Suits in equity are begun by bill of complaint, filed with clerk of court and subpœna issued by him, or may be inserted in writ of attachment and served by copy of bill and writ. On motion non-resident plaintiffs required to give security for costs.

Administration of Estate. (See Estates of Deceased Persons.)

Affidavits. Affidavits may be made before a notary public or justice of the peace. In some court matters authority of magistrate must be proved by certificate of clerk of a court of record.

Aliens. Aliens may hold and convey real estate and personal property. Wills of aliens may be proved and allowed in this State. Widow of a citizen of United States who was an alien when she married him has right of descent in his estate (but see Married Women).

Arbitration. Judge of probate court may authorize executors or administrators to adjust by arbitration claims for or against the estates represented by them. All controversies which may be the subject of personal action may be submitted, by the parties, to referees for arbitration. Majority of referees may make report to Supreme or Superior Courts.

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 are necessary for his immediate support, and that at least $10 is due on the claim; on execution, only after supplementary proceedings and fraud proven, but if contract judgment or action existing March 17, 1887, arrest on execution. Debtors arrested on mesne process or execution may disclose, give up property not exempt from attachment and be discharged from arrest, or may give bond and disclose according to its terms. No arrest in actions ex contractu for less than $10, and none of married women in civil actions.

Assignments. Common law assignments for the benefit of creditors may be made, and after four months will be good against bankruptcy proceedings. Assignments of wages must be recorded in town clerk's office.

Attachment. All property not exempt attachable on mesne process as of course without affidavit; security for costs by indorser of writ only if creditor is non-resident; lien by attachments in the order in which they are made continue 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 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 on same. 6. Twenty dollars wages, for personal labor of the debtor, wife or minor child within one month, and $10 exempt in all cases. 7. In certain cases money due on life and accident policies, and from fraternal beneficiary associations. (See Creditors' Bills.)

Banks. Savings bank business and discount banking permitted only under special charter, and under state supervision. Trust companies may be organized under general statutes on obtaining approval of state bank examiner. General statutes relating to discount banking repealed by Laws 1903, c. 166. Foreign banking associations having a branch here pay a tax of three-fourths of one per cent per annum on the amount of business done in this State. Savings banks have no capital, and do business only for the benefit of depositors, under statute regulations restricting investments, requiring reports under oath and examinations by bank examiner. Must not pay over 2 1-2 per cent dividend semi-annually. Franchise tax is five-eighths per cent, regulated to favor home investments. Use of the words "bank," "trust company," and similar words in designating a business, forbidden, except by corporations organized as above or under laws of United States. Corporations, if licensed by bank commissioner, may receive savings deposits from their employees. Dealers in securities must be registered with bank commissioner and are subject to certain regulations.

Collaterals. (See Mortgages.)

Conditional Sales, Consignments. No agreement that personal property bargained and delivered to another shall remain the property of the seller until paid for, is valid unless in writing and signed by the person to be bound. Such agreement, in whatever form it may be, is not valid except as between original parties, unless recorded in the office of the clerk of the town in which the purchaser resides at the time of the purchase. This does not apply to goods consigned for sale.

Conveyances. (See Deeds.)

Corporations. Three or more persons may form a corporation to carry on any lawful business excepting banking, insurance, constructing and operating railroads, savings banks, trust companies, or corporations intended to derive profits from the loan or use of money, and safe deposit companies, but corporations may be formed under the general law for the construction and operation of railroads outside the State of Maine. Corporations for other purposes, excepting for municipal purposes, and where the objects of the corporation can not be attained without special acts, are also formed under general laws. Organization becomes void unless corporation begins business within two years. Corporation may capitalize to an unlimited amount and may increase or decrease the amount of their capital or the par value of the shares. No portion of capital is required to be paid in; stock may be issued for property or for services and in absence of fraud the judgment of the directors as to the value of such property or services is conclusive, the stock thereupon becoming fully paid. Only original subscribers and takers of stock are liable on same to extent of unpaid par value and then only for debts contracted during their ownership of stock, and action to enforce such liability must be commenced within two years and can be maintained only by a judgment creditor of the corporation who shall have begun proceedings to obtain such judgment against the corporation during the ownership of such stock or within one year after its transfer by such stockholder is recorded on the corporation books. Directors must be stockholders or members of another corporation which is a stockholder. If corporation fails for six months to elect directors, court may appoint. Corporations must pay to the State upon organization, a fee as follows: Where the capital stock is $10,000 or less, $10; exceeding $10,000 and up through $500,000, $50; above $500,000, $10 for every $100,000 of capital. Other fees for organization are: attorney-general's fee $5, register of deeds $5, secretary of state $5. The annual franchise tax is as follows: $5 provided authorized capital does not exceed $50,000; exceeding $50,000 and up through $200,000, $10; exceeding $200,000 and up through $500,000, $50; exceeding $500,000 and up through $1,000,000, $75; and the further sum of $50 per $1,000,000 or any part thereof in excess of $1,000,000. Corporations which have suspended business temporarily and have been excused from filing returns of amount of capital stock, etc., are not liable for franchise tax. Meetings of stockholders must be held within the State. Clerk must be resident and keep stockholders' records in the State. His records are open to inspection by stockholders but not by mere creditors. With the exception of banking corporations

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no public reports are required except one to the secretary of state showing names and residences of officers and amount of capital stock. Delivery of certificate of stock to bona fide purchaser or pledgee for value together with written transfer of same or written power of attorney to sell, assign, and transfer same, signed by owner of certificate, transfers title against all parties. Foreign corporations have practically same rights as domestic, but are required to file copy of charter with secretary of state, also a copy of the by-laws, and are also required under severe penalties to file certificate showing among other things the names of officers, amount of capital stock authorized, amount issued and amount paid in; also must file certificate showing any change in above particulars. Such corporations must also appoint a resident of Maine, having an office or a place of business in the state, to be its attorney on whom process may be served in any legal proceeding. Corporations may dispose of their franchises on majority vote of the stockholders; may sue and be sued, and have generally the powers of individuals. Public service corporations are subject to a Public Utilities Commission.

Courts. Terms and Civil Jurisdiction. Supreme judicial court: Two or three terms a year in each county; unlimited jurisdiction except as specified below; full jurisdiction in equity; appellate jurisdiction en banc on questions of law, from trial terms and superior courts. Superior courts: In Cumberland County except equity, real actions, extraordinary legal remedies and some others; exclusive jurisdiction with exceptions to $500 and in divorce, concurrent jurisdiction above $500; 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 second Tuesday of January and first Tuesday of April and September at Augusta; second Tuesday of June and November at Waterville. Courts of probate: Usual jurisdiction concurrent in equity of probate matters. Municipal courts and trial justices: Exclusive jurisdiction of forcible entry and detainer and in other cases up to limited amount; appeals to superior court where established, and elsewhere to supreme judicial court.

Creditors' Bills. Bill in equity may be maintained to reach property of debtor which cannot be reached by process at law, and is not exempt from attachment; also property conveyed in fraud of creditors and property secreted so that it is not repleviable.

Days of Grace. (See Negotiable Instruments.)

Deeds. Any owner of real estate having right of entry may convey it by deed. No estate greater than tenancy-at-will can be created except in writing. Deeds must be acknowledged by a grantor or one of them or by attorney in fact, executing the same, before a justice of the peace, notary public having a seal, or woman qualified to take acknowledgments; outside the State, and in the United States, before a clerk of a court of record having a seal, notary public, or commissioner of deeds for this State, and in a foreign country before a notary public, or a consul or minister of the United States, but if magistrate acting outside of State has no official seal, his authority and the genuineness of his signature must be authenticated by the clerk of a court of record in county where he resides. Unacknowledged deeds cannot be recorded. No special form of acknowledgment required. Deeds must be recorded to be valid against parties without notice of the conveyance. Deeds must be under seal, but witness is not required for validity although usual to have one. Leases for more than seven years must be recorded. Trusts concerning real estate can be created only in writing, except those arising by implication of law.

Depositions. Depositions may be taken by disinterested justice of the peace or notary public; may be taken when deponent is unable through age, infirmity, or sickness to attend at place of trial; when deponent resides out of, or is absent from the State; when deponent resides in town other than that in which trial is to be held, etc. Depositions so taken may be used in all civil suits or causes, petitions for partition of land, libels for divorce, prosecutions for the maintenance of children, petitions for opinions in trial before courts of arbitrators, referees and county commissioners, and in cases of contested senatorial or representative elections. Depositions or affidavits may also be taken in applications for pensions, bounty, or arrears of pay under any law of the United States. Courts may issue commissions to take depositions out of the State, or they may be taken out of State by a justice, notary, or other person empowered, but in the latter case it is within the discretion of the courts to admit or reject them.

Descent and Distribution of Property. (See Estates of Deceased Persons.)

Dower. Abolished by laws of 1895, chap. 157, taking effect as to persons not then married, May 1, 1895; as to others, Jan. 1, 1897. Wife or husband may bar the right by inheritance to one-third or one-half, as the case may be, of realty by joining in the other's deed, or by sole deed, or by ante-nuptial settlement, or by jointure. Either refusing to join in other's conveyance (or if incapacitated with no guardian in this state, other being a non-resident) may be barred of inheritance upon application to supreme judicial court and decree after hearing. (See Estates of Deceased Persons.)

Estates of Deceased Persons. Eighteen months after notice of appointment allowed creditors to present claims and suit must be begun and service of process made within twenty months after such notice of appointment. Allowance to widow and minor children, made by court from estate. 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. No administration granted after twenty years. The real and personal estate of a person deceased intestate (excepting wild lands conveyed by him) being subject to the payment of debts descends according to the following rules: 1. If he leaves a widow and issue, one-third to the widow. If no issue, one-half to the widow. And if no kindred, the whole to the widow. And to the widower shall descend the same shares in his wife's real and personal estate. There shall likewise descend to the widow, or widower, the same share in all such real estate of which the deceased was seized during coverture, and which has not been barred, or released, as herein provided. In any event, one-third shall descend to the widow or widower free from the payments of debts. 2. The remainder of which he dies seized, and if no widower, or widow, the whole, together with all wild lands, shall descend in equal shares to his children, and to the lawful issue of a deceased child by right of representation. If no child is living at the time of his death, to all his lineal descendants; equally, if all are the same degree of kindred; if not, according to the right of representation. 3. If no such issue, it descends to his father and mother in equal shares. 4. If no such issue, or father, it descends one-half to his mother. If no such issue or mother, it descends one-half to his father. In either case, the remainder, or if no such issue, father or mother, the whole descends in equal shares to his brothers and sisters, and when a brother or sister has died, to his or her children or grandchildren by right of representation. 5. If no such issue, father, brother or sister, it descends to his mother. If no such issue, mother, brother or sister, it descends to his father. In either case, to the exclusion of the issue of deceased brothers and sisters. 6. If no such issue, father, mother, brother or sister, it descends to his next of kin in equal degree; when they claim through different ancestors, to those claiming through a nearer ancestor, in preference to those claiming through an ancestor more remote. 7. When a minor dies unmarried, leaving property inherited from either of his parents, it descends to the other children of the same parent, and the issue of those deceased; in equal shares if all are of the same degree of kindred; otherwise, according to the right of representation. 8. If the intestate leaves no widower, widow or kindred, it escheats to the State. An illegitimate child is an heir of its parents who intermarry; also of its mother, also of its father, who adopts it or acknowledges it before a magistrate; and in any case where the child is treated as an heir it inherits from the lineal and collateral kindred of the parent, and they from it. (See Wills.)

Executions issue after twenty-four hours from rendition of judgment, returnable in three months, renewable within ten years after. 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 and personal property by sale; money and, by consent, circulating notes applied directly. Real estate sold on execution may be redeemed in one year. Attaching creditor may within forty-eight hours after notice redeem personal property of debtor which is subject to mortgage pledge, or lien; may also redeem real estate subject to mortgage or other lien. Special provisions for redemption of certain other special classes of property, such as buildings on leased lands, franchises, etc.

Exemptions from Attachment and Execution. Homesteads, not exceeding in value $500, when duly registered; debtor's apparel, necessary furniture for family, not exceeding in value $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, and materials and stock, $50; sewing machine, $100; pair working cattle, or pair mules, or one or two horses, $300; hay to keep them; harness for each horse and mules, $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 or two tons; debtor may elect if he has more than is exempt. Life and accident policies are exempt from creditors, except any excess of $150 per year premium paid within two years, except suits for necessaries. (See Attachment.)

Foreign Judgment. Action of debt lies on a foreign judgment and record of it is prima facie evidence of indebtedness. Is conclusive except for fraud when given by court having jurisdiction of parties and subject matter.

Fraud. Usual common law rules as to what constitutes fraud, fraudulent representations, etc.; also statutory penalties for fraud, cheats, etc. Court of equity has power to afford relief. Statutory provisions to prevent sale in bulk of part or whole of stock of merchandise in fraud of creditors.

Frauds and Perjuries. No action shall be maintained upon any contract to charge an executor or administrator upon any special promise to answer damages out of his own estate; nor to charge any person upon any special promise to answer for the debt, default, or misdoings of another; nor to charge any person upon an agreement made in consideration of marriage nor to charge any person upon any contract for the sale of lands, tenements, or hereditaments, or of any interest therein; nor to charge any person upon any agreement that is not to be performed within one year from the making thereof; nor to charge any person upon any contract to pay a debt after discharge therefrom under bankrupt laws of the United States or assignment or insolvent laws of this State; unless the promise, contract, or agreement or some memorandum thereof is in writing and signed by the party to be charged, or his agent. No action shall be maintained on a minor's contract unless ratified by him in writing after becoming twenty-one years of age, except the contract be for necessaries or real estate where he has received title and obtained benefit. No contract for sale of goods, etc., of $30 or more in value is valid unless purchaser accepts or receives a portion of the goods or gives something to bind the bargain, or in part payment thereof, or some memorandum is made and signed by party charged or his agent. Contracts whereby one becomes agent for sale of lands become void in one year unless time for termination definitely stated.

Garnishment. (See Attachment.)

Husband and Wife. Each may hold and deal with property individually, subject to right of descent in real estate. (See Estates of Deceased Persons.) Husband not liable for debts of wife contracted before marriage, nor afterward in her own name, nor for her torts. Equity Court has special jurisdiction of disputes between husband and wife relating to property. After petition to and decree by probate court either may convey real property as if sole, and other is barred of all right by descent where deserted without just cause or if actually living apart for just cause, and desertion or living apart has continued one year.

Interest. Six per cent or any other rate agreed upon 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. On loans for less than $200, secured by mortgage or pledge of personal property, the rate shall not exceed 3 per cent per month for first three months, and 15 per cent per annum thereafter. Loans negotiated in this state by agent of non-resident borrower with intent to evade usury laws of state where borrower resides are voidable.

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.

Liens. (Voluminous Statute Provisions, for Mechanics, Material Men, Hotel and Boarding-House Keepers, Stable Keepers, Agister, etc.)

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; of account, assumpsit, or case on contract or liability express or implied; waste; trespass qu. cl. and d. b. a.; replevin; 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 recognizance. Eighteen months: stolen bonds and coupons, except by owner. Twenty years: witnessed notes, bank bills, specialities, real action, other judgment and all other personal actions. Suit begun when writ was made. Incapacity of plaintiff, death of either party before or within thirty days after expiration of time, fraudulent concealment of action, absence from State when cause accrues or 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 must be made, to extend time. Against executors and administrators, twenty months after filing of affidavit of notice given of appointment of executor or administrator, 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.

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Limited Partnership. May consist of one or more general partners and one or more special. Special shall contribute specific amount of capital or property at cash value, and be not liable for debts beyond that amount. General partners must transact the business.

Married Women have same rights and liabilities as to property contracts and all suits as men. Wife's property not liable for her husband's debts, nor his liable for her prior debts nor for others made on her credit. She may sue and be sued as if sole. May not be partner of husband and not liable for family expense except by express promise. (See Arrest, also Dower, also Estates of Deceased Persons, also Husband and Wife.)

Mortgages. Of real estate: executed and acknowledged as deeds and must be recorded as to third parties; convey fee with condition of defeasance. Foreclosed without possession by serving or advertising notice, or by possession obtained peaceably, or by consent, or by suit. Redemption in one year from notice or possession; power of sale mortgages not authorized by statute and not much used. Supreme court may authorize a mortgage by a person in possession of an estate subject to a contingent remainder, executory devise, or power of appointment, and such mortgage is binding on all parties. Chattel mortgages unless and until possession taken and retained by mortgagee to be good against third parties must be recorded in town clerk's office where mortgagor resides when mortgage is given; or, if any of mortgagees are non-residents, then in registry of deeds in county where mortgagee resides, when mortgage is given. Mortgage on household furniture must state amount of loan, interest rate, and cost of procuring loan. Agreements, whether in form of note, lease, conditional sale, etc., or otherwise, that chattels bargained and delivered shall remain property of seller till paid for, must be in writing and recorded as chattel mortgages; such mortgages and notes foreclosed by sixty days' notice to mortgagor or assignee of record, or, if out of State, by publication; redemption in sixty days. Collaterals pledged on notes, etc., or for the performance of anything, after failure to pay or perform by the pledgor, may be sold by the pledgee, he first giving written notice to the pledgor of the proposed sale, or if his residence is unknown, by publication of notice once a week for three successive weeks in a newspaper in the city or town where the pledgee resides, recording said notice and affidavit of service of same in the clerk's office of city or town where the pledgee resides, and after the expiration of the sixty days from the time of said recording.

Negotiable Instruments. Days of grace abolished except as to sight drafts. Falling due on Sunday or bank holiday payable and presentable for payment on secular or business day next succeeding. If holiday falls on Sunday then following Monday is deemed bank holiday. On notes payable at fixed place on demand at or after a time certain, no recovery unless demand proved there before suits 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, 1 to 9 per cent according to place. Negotiable paper presumed to be taken in payment of debt or liability for which it is given, unless creditor would thus lose security he otherwise would have had. Legal holidays are January 1; February 22; April 19; May 30; July 4; first Monday in September; Thanksgiving; Christmas, and Arbor Day. If note reads "I promise to pay" all signers are jointly and severally liable.

Partnership. Personal property of partnership, or interest of partner therein, exempt from attachment on mesne process, or seizure on execution for any individual liability or such partner; but is statutory provision for reaching same after judgment. Partners in mercantile enterprise must file sworn certificate with city or town clerk where business to be carried on, showing names and residences of partners, nature of business and partnership name. (See Limited Partnership.)

Powers of Attorney. Usual common law rules.

Probate Law. (See Estates of Deceased Persons.)

Protest. (See Negotiable Instruments.)

Replevin. Goods or chattels wrongfully taken or detained may be replevied by owner or party entitled to possession. Replevin bond must be double the value of property replevied. If dismissed without trial, suit may be brought on the bond, in which suit title may be shown to mitigate damages.

Taxes 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 one year from sale to redeem by paying tax, costs, and 10 per cent interest from day of sale; residents, two years with 10 per cent interest from day of sale on whole sum of tax and costs. Land on which taxes are unpaid, sold on first Monday in February in year succeeding the year in which tax was assessed; 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 telegraph and telephone lines, collected by suit. Corporations, other than those especially provided for, pay a franchise tax of $5.00 if authorized capital does not exceed $50,000.00; of $10.00, if capital does not exceed $200,000.00; of $50.00, if capital does not exceed $500,000.00; of $75.00, if capital does not exceed $1,000,000.00; and the further sum of $50.00 for each $1,000,000.00, or fraction thereof, in excess of $1,000,000.00. Foreign corporations pay annual license fee of $10. Inheritance tax ranging from 1 to 7 per cent, according to degree of relationship and amount of bequest. $500 exempt in all cases, and $10,000 exempt in case of certain near relatives. Special exceptions and exemptions from assessment, and special provisions for taxing personal property situated here but owned out of the State. Real estate mortgages exempt. (See Banks.)

Wages. Weekly payment required in most industries. (See Assignments, Attachment.)

Warehouse Receipts. Holder deemed true owner so far as to give validity to contract for sale of merchandise covered, or to protect one acting on faith of such ownership; but one taking from agent as security for antecedent debt gets no greater right than agent. Title to property passed by endorsement, but not in blank, to purchaser or pledgee in good faith. Property in warehouse may be attached as that of person named in receipt, or of last endorsee shown by books of warehouseman. Common law rules prevail generally.

Wills. Wills must be in writing signed by the testator, or at his request by some person in his presence, and subscribed in his presence by three witnesses in presence of each other, may be made by any person of age and of sound mind, and may dispose of all property. Wills executed in another State or country according to laws thereof, may be proved and allowed in this State in the county where the testator had his residence at time of decease; if proved without this State (at his domicile), may be allowed in any county here where he has property. Widow or widower may within six months waive provision in will of deceased husband or wife and claim same share in personal property as would have had in case deceased died intestate. (But see Husband and Wife.)

Nuncupative will must be reduced to writing within six days, or proved by testimony within six months, from time words spoken. No letters in such till fourteen days after decease of testator. Not effectual to dispose of more than $100.00 worth of property unless proved by three witnesses who acted at testator's request.

SYNOPSIS OF

THE LAWS OF MARYLAND

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by HINKLEY, HISKY & BURGER, Attorneys at Law, Baltimore. (See Card in Attorneys' List.)

In general. Bagby's Annotated Code (1911) and Supplementary Volume (1914) embrace the Public General Laws of Maryland, including those of the 1914 session. By statute, the Code of 1911 has been made evidence; special reference to statutes in the following is therefore unnecessary.

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 supreme bench 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 court of the county, or superior court of Baltimore city, under his official seal, or any judge of the supreme bench of Baltimore city, 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. No separate examination of a married woman is required. Defective acknowledgments cured. (See Conveyances.)

Actions. The forms of actions, which still savor of the common law are now very simple, any plain statement of facts constituting a good cause of action being sufficient. Amendment is allowed at any time before verdict. Equitable defenses are now allowed to be made in a court of law, although there are still law courts and equity courts having different and distinct jurisdiction. Speedy judgment Acts are in force in Baltimore City and in many of the Counties. (See Suits.)

Administration of Estates. The orphans' court of the counties and the orphans' court of Baltimore city are the courts of probate. In cases where decedent left a will, letters are granted to executor and executrix named in the will. In granting letters of administration, where decedent died without leaving will, letters are granted: 1. To widow or child or children; 2. Grandchild; 3. Father; 4. Brothers and sisters; 5. Mother; 6. Next of kin; 7. Largest creditor applying for letters. In each class, males are preferred to females. Bond is required with two sureties, or one of certain local surety companies where authorized by their charter to act as sole surety. When testator requests in will that executor be excused from giving bond, court only requires nominal bond for amount sufficient to pay estimated debts. Six months notice to creditors must be given by publication before estate is distributed. Personal property must be appraised, accounted for and distributed through the orphans' court of the county or city in which decedent resided. All sales must be authorized and ratified by the orphans' court. By Act of 1896, Ch. 246, above provisions were made applicable to "estates of persons absent and unheard of for above seven years." This act has been held unconstitutional. Re-enacted with amendments. (Acts 1908, Ch. 125.) This act constitutional by decision of Court of Appeals in case of Savings Bank vs. Weeks 110 Md. 78.

Affidavits. (See Acknowledgments.) No particular form necessary, but whoever can take an acknowledgment can take an affidavit. Affidavits always required in a mortgage as to the bona fides of mortgage consideration; and the payment of tax on annual interest in certain counties. (See Mortgages.)

Aliens. Aliens, not enemies, may take and hold lands, tenements, and hereditaments acquired by purchase, or to which they would, if citizens, be entitled by descent, and may sell, devise, or dispose of the same or transmit the same to their heirs as fully and effectually and in the same manner as if by birth they were citizens of this State.

Arbitration. Disputes between parties may be conducted by any judge or justice of the peace mutually agreed upon. Special agreements for arbitration of such disputes to be valid. Parties may be represented by an attorney, and award of arbitrator or arbitrators to be a judgment, and court may give judgment and issue execution on the award. Act 1904, Ch. 671, provides a means for the settlement of disputes between employers and employees by mediation or voluntary arbitration.

Arrest. No arrest for debts in this State. In criminal cases a sentence may be passed, imposing a sum of money as a fine, and then in lieu of payment by party, of fine imposed, he is liable to imprisonment.

Attachments for debt (See Act 1890, Chap. 549), or for unliquidated damages, either in contract or tort, 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 has absconded or 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 and the attachment may be maintained, although the debt or obligation upon which the action is brought may not have matured, but

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the date of the maturity of the debt or obligation must be set forth in the affidavit (Act 1894, Ch. 648). 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 may be attached. There is a special provision for capital stock of a corporation. The certificate itself must be seized. Credits not due may be attached, but wages, hire, or salary not due can not be attached, and 90 per cent of wages, hire, or salary due shall always be exempt. (Act 1908, Ch. 665.) Imprisonment for debt is abolished. Defendant may be sued wherever he does business. 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. (Code Art. 9.) All papers in attachment proceedings can now be amended, as in any other actions at law. (Act 1898, Ch. 44.)

Banks. The Act of 1910, as amended by the Acts of 1912 and 1914, made important changes in the banking laws of this State. The law now provides for the appointment of a Bank Commissioner with broad powers for the examination of all banking institutions in this State other than National Banks and an annual report thereon to the Governor. Whenever capital is reduced by impairment commissioner may require Bank to make such deficiency good within sixty days, and upon failure to do so may take possession of property and business of such institution and retain possession until affairs are finally liquidated. This also applies where the business is conducted in an unsafe or unauthorized manner. The requirements for the incorporation of such institutions are fully set forth in the act. This act also provides for the incorporation and supervision by the State of saving institutions and trust companies.

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. Acts 1900, Ch. 362, make it no longer necessary to show that the consideration for a promise to answer for the debt of another is in writing. 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 contract 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 necessaries are binding upon them. The contract of a lunatic is voidable and not void. The statute provides that a married woman may engage in business, contract, sue, and be sued upon contracts and torts, as if unmarried. (Acts 1898, Ch. 457.) All gambling contracts and contracts made on Sunday are void.

Conveyances. No estate or title to any property lying within this State, for any period above seven years, shall pass or take effect unless the deed conveying the same shall be executed, acknowledged, and recorded. (See Code, Art. 21, Sec. 1.) Every deed of real estate shall be signed and sealed by the grantor and bargainor, and attested by at least one witness. No words of inheritance necessary, but every deed shall be construed to pass fee simple title unless the contrary appear. A scroll with the word "seal" therein by way of a seal, is sufficient. A deed must be recorded within six months from date, in county or Baltimore City, where land lies, but if recorded after this, deed, while valid between parties, is invalid as to deeds to bona fide purchasers without notice recorded prior thereto. A body corporate must embody in the deed itself the appointment of an attorney to acknowledge the deed as and for the corporate act of said corporation or have it acknowledged by the President or Vice-President without such appointment. Vendors' lien may be released in original deed or upon records where recorded. (Code Art. 66, Sec. 31). Conveyances defectively executed made valid by Acts 1908, Ch. 105 and Acts 1914, Ch. 259 and Ch. 421.

Corporations are organized under the authority of the General Incorporation Law, completely revised, Act 1908, Chap. 240. Liberal provisions are made for general incorporation: only exception (for municipal purposes) is in the constitution. All corporations (under the general law) must pay a bonus tax of one-eighth of 1 per cent upon its authorized capital stock and any increase. Corporations have perpetual succession, may carry on business anywhere, may issue bonds, and secure them by mortgage of all property including franchises. Foreign corporations must file list of resident shareholders, and amount held. The corporation's certificate must be filed and $25 paid; annual renewal fee of $1 is charged. All corporations, not paying a gross receipt tax (a long enumeration), shall pay an annual franchise tax on their capital employed in this State, of 50 cents per $1,000 but no less than $25. If capital is over $500,000 then one-fourth of 1 per cent on the excess to $5,000,000, etc. Domestic corporations may issue all kinds of preferred and common stock, and exchange same for stock or good will. Valuation in absence of fraud is conclusive. As to Stock certificates, see "Uniform Laws."

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 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. Justices of the peace have jurisdiction to the amount of $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.

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. Testimony of non-resident witnesses can also be taken upon proper notice, as provided by Sec. 17 of Art. 35 of the Code.

Descent and Distribution of Property. As to descent, see Code 1904, Art. 46, and as to distribution, Code, 1904, Art. 93.

An attempt to abrogate the Rule in Shelley's case has been made by Ch. 144, Acts 1912.

Dower. The common-law right of dower exists in Maryland, and extends to equitable estates. By act 1898, the husband's dower was created; an estate of the husband in his wife's estates of inheritance, exactly equivalent to the wife's dower in her husband's estate. A devise or bequest of real or personal property to the wife or husband shall be construed to be in lieu of dower in lands or share of personal estate, respectively, unless otherwise expressed in the will. If the widow or widower renounces formally in writing, however, such provision made for her or him by the will, within six months after the grant of administration on the estate of the deceased husband or wife, the dower right and the share of personal property remain undisturbed. (See Married Women.)

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 thereafter 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 judments 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, whether same consists of money, land, goods, or money payable as insurance, benefit, or relief in the event of sickness, hurt, accident, or death, 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.

Foreign Corporations. (See Corporations.)

Foreign Judgments. Judgments of the courts of other states certified under the act of congress, are proper causes of action against any person subject to the process of the courts of this State.

Fraud. When any false representation is made by one to another with the intent to defraud, and the defrauded party, thinking the alleged fraud to be true, acts upon it, any contract thus made can not be enforced. But if the injured party knows such representations to be false, it can not be said to have influenced his conduct. For general doctrine in this State see McAleer vs. Horsey 35 Md. 439. Giving checks or drafts without provision for acceptance is prima facie evidence of intent to defraud, and is punishable as a crime unless such provision is made within ten days. Every person buying merchandise in bulk shall demand and receive from the vendor a written statement under oath containing the names and addresses of all creditors with amount of indebtedness at least five days before the sale is consummated. The vendee at least five days before consummating such sale shall notify all of said creditors either personally or by registered mail of such proposed purchase. A sale or transfer of goods in bulk without such notice shall as to all subsisting creditors of the vendors be void.

Garnishments. (See Attachments.)

Husband and Wife. (See Dower, Divorce, and Married Women.) In this State the husband is not liable for wife's ante-nuptial debts or contracts. Husband is liable for necessaries of wife. Acts 1898 Ch. 457, gives husband same interest in wife's estate as wife has in husband's estate. Married women are expressly authorized by the Acts of 1900, Ch. 633, to become partners and to contract with husband. Either can relinquish interest in other's real estate by joint or separate deed, or by agent or attorney properly constituted. The wife's property is protected by the Constitution from the debts of the husband.

Interest. The legal rate of interest is 6 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. Since September 1st, 1914, judgments bear interest from the date of the verdict.

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 a copy of the docket entries to the clerk for record. The lien commences from the date of the entry of the docket entries by the clerk. Judgments are not liens on mortgages. Judgments are not liens on personal property until execution has issued and the writ is in the hands of the sheriff. (See Act 1890, Chap. 558, as to examination of judgment debtors.) (See Suits.)

Liens. (See Judgments.) Mechanics' Liens. Every building erected, repaired, rebuilt, or improved to the extent of one-fourth of its value is subject to a lien for work done or materials furnished for or about the same. Act of 1898, Ch. 502, abolished lien for materials furnished for buildings in Baltimore city. Every machine, wharf, or bridge, constructed or repaired is subject in like manner as buildings are, to a lien according to the provisions of Code 1888, Art. 63, Sec. 22. All boats or vessels are subject to a lien for materials furnished or work done in building, repairing, or equipping the same. To secure the lien and lay foundation for enforcing it, the material man must within six months after the last work has been furnished, file a claim in the superior court for Baltimore City, or in the circuit court for the county. The liens are enforced by scire facias or by bill in equity.

Limitations of Suits. Accounts and notes are barred after three years, sealed instruments after twelve years; judgments twelve years except against foreign corporations (no limitations.) Act 1914 Ch. 846. A verbal promise or acknowledgment will revive a debt barred by the statute.

Married Women. Act of 1898, Chap. 457, Code Art. 45, repeals and re-enacts the entire law in this State. Married women may hold and dispose of their property lawfully as if unmarried, but husband must join in conveyances of real estate to release his interest. Married women may engage in business, contract, sue, and be sued upon contracts and for torts, as if unmarried. Married woman is alone liable for ante-nuptial debts and contracts. Husband is still liable for necessaries. Widow is entitled to dower in real estate, and one-third of the personal estate if there are children, and if no children, one-half of the personal estate; husband has same rights in wife's property as wife has in husband's property. Where the wife is adjudged a lunatic upon inquisition, and the finding remains in force, husband may convey after acquired property by separate deed, as if unmarried.

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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, and, in the four Counties mentioned below, that the mortgagee will not require the mortgagor, or any other person for him to pay the tax levied upon the mortgage interest, and upon the assignment of any mortgage except for the purpose of foreclosure, a like affidavit must be made by the assignee. 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. Mortgagees are required to pay a tax of 8 per cent on the interest covenanted to be paid in the mortgage, in Somerset, Montgomery, Frederick, and Dorchester counties. No tax in Baltimore City and other counties. (Code Art. 81, Ch. 187.)

Notes and Bills of Exchange. Negotiable instruments are defined by Ch. 119 of the Laws of 1898, which repeals all laws inconsistent with the provisions of this act. Section 20 provides as follows: "An instrument to be negotiable must conform to the following requirements: 1. It must be in writing and signed by the maker or drawer. 2. It must contain an unconditional promise or order to pay a sum certain in money. 3. Must be payable on demand, or at a fixed or determinable future time. 4. Must be payable to order or to bearer; and 5, where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty." Its negotiability is not affected by a seal, or by a provision which authorizes the sale of collateral securities in case the instrument be not paid at maturity, or authorizes a confession of judgment if the instrument be not paid at maturity; or waives the benefit of any law intended for the advantage or the protection of the obligor; or gives the holder an election to require something to be done in lieu of payment of money. It is not necessary that paper should be made payable at a bank or any fixed place. To charge indorser, notice of non-payment must at once be given to him. The time of maturity is regulated by Art. 13, as follows: "Section 104: Time of Maturity. Every negotiable instrument is payable at the time fixed therein without grace. When the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day. Instruments falling due on Saturday are to be presented for payment on the next succeeding business day, except that instruments payable on demand may, at the option of the holder, be presented for payment before 12 o'clock noon, on Saturday, when that entire day is not a holiday." Legal holidays are: Christmas, New Year's Day, February 22, Good Friday, July 4, May 30, 1st Monday in September, 12th day of September, and the 12th day of October, 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, and all Saturdays after 12 o'clock noon are legal half holidays. Monday is treated as Sunday when immediately preceded by one of the holidays aforesaid. By act 1898, Ch. 198, 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.

Power of Attorney. Every power of attorney authorizing an agent or attorney to sell and convey any real estate, shall be attested and acknowledged in the same manner as a deed, and recorded prior to or with the deed executed in pursuance of such power of attorney. A corporation shall have power to appoint an attorney for the same purpose, by its corporate seal. Such power of attorney shall be deemed to be revoked when the instrument containing the revocation is recorded in the office in which the deed should properly be recorded.

Probate Law. (See Administration of Estates and Wills.)

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.)

Replevin is a remedy to recover specific goods and chattels to whose possession the plaintiff is entitled. Also the proper remedy to recover possession of goods distrained unlawfully. Bond must be given to the State of Maryland, and any party having an interest in the property, may, upon breach of any covenant in bond, maintain an action in the name of the State for his or her use.

Sales & Notices. Act 1910, Ch. 346, provides a Uniform Sales Act.

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. Beginning with 1915, the State tax is thirty-two and one-third cents, beside the County tax. The County tax on Banks located and in business anywhere in Maryland is uniformly 1 per cent. The property of religious, charitable, benevolent, and educational institutions, and cemetery companies is exempt from taxation. On timely application exemption may be had for manufacturer's tools and machinery in actual use from Municipal taxation in Baltimore City and in some of the Counties, and beginning with 1915, from State taxation. 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 twelve calendar months from date, and in default of redemption, title to property vests 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

"Uniform State Laws" intended for adoption by all the States and adopted by Maryland: (1) Negotiable Instruments, (2) Bills of Lading, (3) Sales, (4) Warehouse Receipts, (5) Stock Transfer, (6) Probate of Foreign Wills.

Certificates of capital stock, bills of lading, and warehouse receipts, roughly speaking, (1) are negotiable, (2) represent the property certified to.

Wills of land or personal property, and any codicil thereto, must be in writing, signed by the testator, or some one else for him, in his presence, at his request, and witnessed by two or more credible witnesses, as and for last will and testament of the testator, in the presence of all the witnesses thereto. Nuncupative wills invalid except in case of disposition of personal property by soldiers and marines in actual service. Every will or other testamentary instrument executed without this State in the mode prescribed by law, either of the place where executed or of the testator's domicile, or according to the forms required by the law of this State shall be deemed to be legally executed, and shall be of the same force and effect as if executed in the mode prescribed by the law of this State, provided, said last will and testament is in writing and subscribed by the testator; and if the testator was originally domiciled in Maryland, although at the time of making the will or at the time of his death he may be domiciled elsewhere, the said last will or testamentary instrument so executed shall be admitted to probate in any orphan's court of this State; and when so admitted shall be governed by and construed and interpreted according to the law of Maryland, without regard to the lex domicilii, unless the testator shall expressly declare a contrary intention in said will or testamentary instrument. Code Art. 93, Ch. 334. No will, testament, codicil, or other testamentary paper shall be subject to caveat or other objection to its validity after the expiration of three years from its probate. (Acts 1894, Ch. 405.) When a person is unheard of for above seven years, and supposed to be dead, the orphans' court, under the provisions of Act of 1908, Ch. 125, may grant letters testamentary or of administration as the case may be.

Workmen's Compensation. By the Act of 1914, Chapter 800, provision is made for the insurance by employers of their employees engaged in extra-hazardous occupations, to provide for compensation for injuries and death. This Act is intended to supersede within its scope recovery for injuries through negligence as a tort, and to do away with such defenses as "assumed risk," "fellow servant" and, to some extent, "contributory negligence." The extra-hazardous employments are enumerated at length, and the extent of compensation set out. Employers and employees, may by filing agreement, classify their occupation as extra-hazardous, although not so enumerated in this Act.

SYNOPSIS OF

THE LAWS OF MASSACHUSETTS

RELATING TO

BANKING AND COMMERCIAL USAGES

Acknowledgments and Deeds. Acknowledgments may be made before any justice of the peace, notary public or special commissioner in the State; when the acknowledgement is made by any person without this State and within any other state, territory or district of the United States, it may be made before any officer of such state, territory or district authorized by the laws thereof to take the proof and acknowledgment of deeds, and when so taken there shall be attached to the certificate of acknowledgment a certificate of the secretary of the state or territory in which such officer resides, under the seal of the state or territory, or a certificate of the clerk of a court of record of such state, territory or district, in the county in which such officer resides, under seal of said court, certifying as to the authority of such officer to take acknowledgments and as to the genuineness of his signature. In deeds where there is more than one grantor, the acknowledgment of one of them is sufficient.

No separate examination or acknowledgment of wife joining in a release of dower necessary. Conveyances of land are made by deed under seal executed by the grantor or attorney having authority therefor. A conveyance in fee, for life or for a term exceeding seven years, shall not be valid except as against the grantor and persons having actual notice of it, unless recorded in the county in which the real estate is situated. Deeds must be under seal, a scroll being insufficient. No subscribing witness is necessary. Release of dower, homestead and other interests must be explicitly stated in deed, wife's joining in deed merely, being insufficient.

Actions. There are three classes of actions: contract, tort, and replevin. Actions at law are begun by writs issued in blank form by the clerks of the several courts. No declaration need be inserted in the writ, except in cases of arrest on mesne process or of an attachment of a vessel. Suits in equity are begun by filing a bill upon which a subpœna is issued by the clerk of the court. Actions begun by trustee process must be brought in the county in which the trustee or one of them resides or has his usual place of business.

Administration of Estates. The judge of probate for the county where deceased last resided may appoint any person of sufficient capacity as executor or administrator. Executors or administrators are required to give a bond of about double the value of the personal estate. An executor will be exempt from giving sureties if testator so directs. An administrator will be exempt if all persons interested in this State except creditors consent and all creditors are notified by publication. In case a non-resident is appointed executor or administrator, he must appoint a resident agent. There are public administrators in each county to whom administration is granted upon estates of persons who die intestate leaving property, and not having any husband, widow, or heir in this State. Ancillary administration may be granted upon the estate of a non-resident who dies leaving property in this State. Every administrator and executor shall file an inventory within three months, and publish notice of his appointment. Notice of a debt and demand for its payment should be given to an executor or administrator within six months after his appoint-

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ment and the debt should be paid after six months and within one year of the appointment. No suit can be brought by a creditor against an executor or administrator within six months after his giving bond, except on a claim not affected by the insolvency of the estate. No suit can be brought against an executor or administrator who has published notice of his appointment, after one year from time of his giving bond, unless he has received new assets after the expiration of the one year, or unless further time is allowed by court. A creditor whose claim does not accrue within the one year may cause assets to be reserved to answer to his claim. When the estate is insufficient to pay all claims, the executor or administrator shall represent the estate insolvent, and commissioner will be appointed to receive proof of claims. Claims for funeral expenses, last sickness, and charges of administration, are not affected by tne insolvency of the estate. Executors and administrators shall render an account at least once a year.

Aliens. Resident or non-resident aliens may sue and be sued and may hold and convey real estate.

Arrest. In an action of contract, the defendant unless she is a woman, may be arrested on mesne process provided the plaintiff, and except in actions on negotiable instruments, the original party to the contract or his executors or administrators makes affidavit that he expects to recover a sum amounting to $20; that he believes that defendant has property which he does not intend to apply to payment of plaintiff's debt; that he believes that defendant intends to leave the State. Actions of tort, against women as well as men, except for slander or libel, may be begun by arrest of the defendant, on the plaintiff or some one in his behalf making certain affidavits. A defendant arrested on mesne process may give bail or he may apply to take an oath that he does not intend to leave the State, or the oath for relief of poor debtors; on taking such oath he is released from arrest. No arrest can be made if the property of defendant is attached upon the same writ. On an execution, except for costs, or for alimony, or one issued in an action of tort, or where debtor is about to leave the State, he can not be arrested until he has first been cited before a magistrate for examination, and it appearing that he has property and refuses to assign it, the magistrate may order his arrest. When arrested under execution the debtor may apply to take the oath for relief of poor debtors.

Assignments for benefit of creditors. A voluntary assignment to trustees for benefit of creditors can not be avoided by creditors who assent thereto, except by proceedings in bankruptcy begun within four months or by proof of fraud. If there is property in excess of the claims of creditors who have assented, the excess in hands of the trustee can be reached by trustee process. Acts done in good faith by the trustee under an assignment are valid, though the assignment be afterward set aside, if the assignment is assented to in writing by a majority in number and value of the creditors not secured. The trustee shall on acceptance of the trust give notice in writing to all known creditors of the assignment and acceptance thereof and shall deposit with the clerk of the city or town wherein the debtor has his principal place of business a copy of the assignment. The above would probably not apply under the provisions of the National Bankruptcy Act.

Insolvency. There is an insolvent law, but it is superseded by the National Bankruptcy Act of 1898.

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. Attachments may be made in suits by or against non-residents as well as in suits by or against residents. No bond is required to make an attachment. Shares of stock in corporations organized under laws of this State, or of United States, cannot be attached except by bill in equity. Attachment of shares of stock is not valid against a bona fide transfer, although not recorded in book of corporation. Shares in foreign corporation cannot be attached except by bill in equity. 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 original party to the contract except in actions on negotiable instruments 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. An attachment is dissolved by death of the defendant if administration is granted upon his estate upon application made within one year after his death.

Banks. In this State, safe deposit, loan and trust companies are governed by the provisions contained in chapter 116, revised laws, and amendments thereto. Under the law twenty 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 $200,000 nor more than $1,000,000.00, except in cities or towns whose population is not more than 100,000, the capital may be not less than $100,000.00, and except also that in towns whose population is not more than 10,000, the capital stock may be not less than $50,000, divided into shares of the par value of $100.00 each. No business shall be transacted until the whole amount of its capital stock is actually paid in. 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. 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 in City of Boston. Trust companies doing business in the City of Boston shall keep a reserve equal to 20 per cent of its liabilities. 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.

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. The bank commissioner 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.

Chattel Mortgages. Chattel mortgages must be recorded in the records of the city or town where the mortgagor resides when the mortgage is made, and in the city in which he then transacts business; every mortgage must be recorded within fifteen days of the date; until recorded the mortgage is not valid except between the parties, unless possession is delivered to and retained by the mortgagee. On loans less than $1,000 secured by mortgage, the rate of interest can not exceed 18 per cent. It is a criminal offense to remove, sell, or conceal mortgaged property.

Corporations. By special act of 1903, chapter 437, the law of business corporations was revised and applies to all corporations organized in this commonwealth for the purpose of carrying on business within the commonwealth for profit, except the following: Banks, savings banks, co-operative banks, trust companies, surety or indemnity companies, safe deposit companies, insurance companies, railroad or street railway companies, telegraph or telephone companies, gas or electric light, heat or power companies, canal, aqueduct or water companies, cemetery, or crematory companies, or any corporations which now have or may hereafter have the right to take or condemn land, or to exercise franchises in public ways, provided that corporations formed for purpose of dealing in real estate shall state the term of the duration of the corporation, such term not to exceed fifty years.

Under this act three or more persons may associate together and form a corporation for carrying on any lawful business not included in the above provisions. Such a corporation must have a capital of not less than $1,000. There is no maximum limit. The shares must have a par value of not less than $5. The stock may be divided into two or more classes with such preferences, voting powers, restrictions and qualifications as may be fixed by the agreement of association. Upon due organization of the associates and filing a copy of the agreement of association with the commissioner of corporations and on payment of a fee of one-twentieth of 1 per cent of the capital, but not less than $25, a certificate of incorporation is issued by the secretary of state. The capital stock may be issued for cash property, tangible or intangible services or expenses. The amount of capital stock may be increased from time to time. The corporation must have not less than three directors, president, clerk and treasurer. The directors, treasurer and clerk are elected by the stockholders. The president is chosen by and from the board of directors. The clerk must be a resident of the commonwealth. Meetings of stockholders must be held within the commonwealth, but directors may meet within or without the commonwealth. Voting by proxy is permitted, but no proxy dated more than six months before the meeting named is valid. Any corporation may hold, purchase, convey mortgage or lease such real or personal property as the purposes of the business may require.

Every such corporation is required to file an annual report of its condition, and if its capital stock is over $100,000, to file a written statement under oath by an auditor. It is also required to make an annual return to the tax commissioner. Every corporation organized under the general law is taxable locally upon all real estate and machinery owned by it in the commonwealth, and is subject to a franchise tax aggregate market value of its shares after deducting therefrom the value of real estate and machinery subject to local taxation as above, and the value of any property of the corporation situated in another state or country and subject to taxation there.

Every foreign corporation which has a usual place of business here, or is engaged here permanently or temporarily in the construction, erection, alteration or repair of a building, bridge, railroad, railway or structure of any kind, shall before doing business here appoint the commissioner of corporations, its attorney for the service of process, such authority to continue as long as any liability remains outstanding against it in this commonwealth; and shall file with the commissioner of corporations a copy of its charter, articles or certificate of incorporation, by-laws, and a certificate setting forth its name, location, names and addresses of its officers, date of its annual meeting, amount of its capital stock authorized and issued, the number and par value of its shares, the amount paid thereon, and details of any payment thereof not made in money. They are required to file annual statements with the commissioner of corporations showing their condition. Officers of a foreign corporation are liable for all debts and contracts made while they are such officers if any statement or report required by law made by them is known to be false. Failure to file the above statements renders every officer and agent liable to a fine of not more than $500. A foreign corporation is subject to taxation locally on its real estate, machinery and merchandise in this commonwealth, and to an excise tax of one-fiftieth (1-50) of one per cent of the par value of its authorized capital, but the excise tax shall not exceed $2,000 a year.

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, 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, and concurrent jurisdiction with the superior court of such actions where such amount exceeds $100 and is less than $300. Police and district courts may in their respective counties have original jurisdiction, exclusive of the Superior Court, of actions of contract, tort or replevin, in which the debt or damages demanded or the value of the property alleged to be detained does not exceed $100 and have original and concurrent jurisdiction with the Superior Court of actions of contract, tort or replevin in which the debt or damages demanded or the value of the property alleged to be detained is more than $100 and does not exceed $1,000. The supreme judicial court has original jurisdiction in all equity matters and may on appeal hear all matters determined by the probate court, and determine questions arising under wills. 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 $2,000, provided one or more of the defendants resides or has his usual place of business in the county of Suffolk.

Land Court has exclusive original jurisdiction for registering titles to real estate under the Torrens system, and of writs of entry and petitions to clear titles to real estate.

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 but neither party to the action

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shall attend at the taking of the deposition or be represented by attorney. Oral examination is allowed if the court so orders.

Dower and Curtesy. A wife is entitled to dower in this State as at common law. A husband shall on the death of the wife hold one-third of her land for his life, this interest is known as curtesy. If the deceased leaves no issue, the surviving husband or widow shall take $5,000 and one-half of the remaining real estate and personal property. If deceased leaves issue, the surviving husband or widow takes one-third of the remaining real estate and personal property. If deceased leaves no kindred, a surviving husband or widow shall take the whole of the remaining property.

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. Original executions in all courts are returnable within sixty days alias executions five years. There is no stay of execution except by special order of court. Executions may be served by levy upon real or personal estate of the debtor or by arrest when arrest is allowed. Certain personal property and real estate are exempt from levy.

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. Shares in co-operative associations not exceeding $20 in value, funds of railroad relief societies assessment insurance benefits, uniforms, arms, and equipments of militia officers.

Frauds, Statute of. No contract for sale of goods for $500 or more shall be good unless the purchaser accepts and receives part, or gives something in part payment or unless a memorandum in writing is made of the bargain and signed by party to be charged. No action can be brought in the following cases unless the contract is in writing and is signed by party to be charged or his agent: 1. To charge an executor, administrator, or asignee in insolvency. 2. To charge a person for the debt of another. 3. On a contract for the sale of real estate or interest therein. 4. On an agreement not to be performed within one year.

Holidays. The following are legal holidays in this State: February 22d, April 19th, May 30th, July 4th, first Monday in September, October 12th, Thanksgiving Day, Christmas or the day following when any of the days mentioned occurs on Sunday. (Saturday after 12 o'clock noon for banking purposes.)

Interest. Legal rate, 6 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. No bond can be issued by a corporation at more than 7 per cent.

Judgments in lower courts 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. Foreign judgments are proved by a copy of the record.

Limitation of Suits. Contracts or liabilities, express or implied and not under seal and not otherwise limited, 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. If the person entitled to bring an action is a minor or is insane or imprisoned when the right to bring such action first accrues, such action may be commenced within the time hereinbefore limited after the disability is removed. The Statue does not run against those residing out of 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 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. Deeds, but not mortgages can be made direct from husband to wife. (See Dower and Curtesy, as to rights of husband in estate of deceased wife.)

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. Notice of the sale must be published once a week for three weeks (sale to be not less than twenty-one days after first publication), the publication to be in the city or town where property is situated or, if no paper so published, then in a paper published in the county. Proper execution of the power of sale forever bars all right of redemption. 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.

Notes and Bills of Exchange. The law of negotiable instruments is codified in Revised Laws, Ch. 73, taking effect January 1, 1899. It does not apply to instruments made and delivered prior to that date. An instrument to be negotiable must be in writing, signed by the maker or drawer; must be a promise to pay a sum certain in money, on demand or at a fixed time payable to order or bearer. An instrument payable upon a contingency is not negotiable. The validity and negotiable character of the instrument are not affected by the fact that it is not dated, or does not state where payable. An instrument is payable on demand when it is expressed payable on demand, or on presentation, or when no time for payment is expressed. When an instrument is payable on demand presentment must be made within a reasonable time; presentment must be made at a reasonable hour on a business day, at the place specified; when no place is specified or address given then at the usual place of business or residence; the instrument must be exhibited and when paid delivered to party paying it. Presentment for payment is dispensed with when the drawee is a fictitious person, or by waiver of presentment. Every negotiable instrument is payable at time fixed therein without grace, except drafts and bills of exchange payable within this State at sight, on which three days grace are allowed; when the day of maturity falls on Sunday or a holiday the instrument is payable on the next succeeding business day. Instruments falling due on Saturday are to be presented for payment on the next succeeding business day, except that those payable on demand may at option of the holder be presented for payment before 12 o'clock noon on Saturday, when that entire day is not a holiday.

The acceptance of a bill of exchange must be in writing and signed by the drawee. The drawee is allowed twenty-four hours after presentment to accept the bill.

When a foreign bill is dishonored by non-acceptance it must be protested for non-acceptance; if not so protested the drawer and indorsers are discharged.

A negotiable promissory note is an unconditional promise in writing by one person to another, signed by the maker, to pay on demand or at a fixed time a sum of money to order or to bearer. A check is a bill of exchange drawn on a bank, payable on demand A check must be presented for payment within a reasonable time after its issue. When a check is certified at request of holder the drawer and indorsers are released.

A bank includes any person or association of persons carrying on business of banking, whether incorporated or not.

The negotiable instrument act of Massachusetts is about the same as the law now in operation in New York, Connecticut, Colorado, Florida, Maryland, and Virginia. 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 notwithstanding the death of drawer if presented within ten days after date, and a savings bank order if presented within thirty days after date.

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 may be made 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 mense process and held to bail.

Taxes are assessed as of the first day of April 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 10 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.

Legacy and Succession Tax. All property within the state belonging to inhabitants of the state and all real estate within the state belonging to persons who are not inhabitants which shall pass by will or by laws regulating intestate succession or by deed, grant or gift to take effect in possession after the death of the grantor to any person, absolutely, or in trust, except to or for the use of charitable, educational or religious societies or institutions the property of which is by the laws of the state exempt from taxation, or for or upon trust for any charitable purposes to be carried out within the State, or to or for the use of a city or town within the State for public purposes, shall be subject to the following tax: all property passing to a husband, wife, lineal ancestor, lineal descendant, adopted child, lineal descendant of an adopted child, the adoptive parent, or lineal ancestor of an adopted parent, the wife or widow of a son, or the husband of a daughter, of the decedent, shall be subject to a tax of one per cent of its value if said value does not exceed $50,000, to a tax of two per cent if its value exceeds $50,000 and does not exceed $250,000, to a tax of 3 per cent if its value exceeds $250,000 and does not exceed $1,000,000, and to a tax of 4 per cent if its value exceeds $1,000,000. All such property passing to or for the benefit of a brother, sister, nephew or niece of a decedent, shall be subject to a tax of 2 per cent of its value if its value does not exceed $10,000, to a tax of 3 per cent if its value exceeds $10,000, and does not exceed $25,000, to a tax of 5 per cent if its value exceeds $25,000 and does not exceed $50,000, to a tax of 6 per cent if its value exceeds $50,000 and does not exceed $250,000, to a tax of 7 per cent if its value exceeds $250,000 and does not exceed $1,000,000, and to a tax of 8 per cent if its value exceeds $1,000,000.

Property passing to or for the benefit of any other person, not exempt, shall be subject to a tax of 5 per cent if its value does not exceed $50,000; to a tax of 6 per cent if its value exceeds $50,000, and does not exceed $250,000; to a tax of 7 per cent if its value exceeds $250,000 and does not exceed $1,000,000; and to a tax of 8 per cent if its value exceeds $1,000,000.

No bequest, devise, or distributive share passing to a husband, wife, father, mother, child, adopted child, adoptive parent of a deceased, unless its value exceeds $10,000, and no other bequest, devise, or distributive share of an estate unless its value exceeds $1,000 shall be subject to a tax.

Shares of stock of non-resident decedents in Massachusetts corporations, national banks and trust companies are subject to a tax on the transfer thereof.

Transfer of Corporation Stock. The delivery of a stock certificate of a Massachusetts corporation to a bona fide purchaser or pledgee, for value, with a written transfer of the same, or a written power of attorney to sell, assign or transfer the same, signed by owner of certificate, shall be a sufficient delivery to transfer the title as against all parties.

Trustee Process. All personal actions except replevin, and actions of tort for malicious prosecution, slander, libel, or assault and battery may be begun by trustee process, and goods, effects, or credits of defendant in hand of a third person may be attached and held to satisfy final judgment.

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.

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SYNOPSIS OF

THE LAWS OF MICHIGAN

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by HENRY WUNSCH and EDWARD F. WUNSCH,
Attorneys at Law, Detroit, Michigan.

(See Card in Attorneys List.)

Acknowledgments of real estate instruments may be before one of the following officers: 1.—Within this State: Any judge, clerk or commissioner of any court of record, notary public, justice of the peace or master in chancery. The official should certify that "On this day before me personally appeared....., to me known to be the person or persons who executed the foregoing instrument and acknowledged that he (or they) executed the same as his (or their) free act and deed." Notary's certificate must show date of expiration commission. Such instruments must have two subscribing witnesses. 2.—In any other state, territory, or district of the United States: Same officials as described above or any officer authorized by the laws of such state, territory, or district, or before a commissioner appointed by the Governor of this State for that purpose. Any such instrument may be executed according to the laws of any such other state or territory. If officer has no seal, certificate of the Clerk of the county or district, or of the Secretary of State within which taken shall be attached. 3.—In any foreign country: notary public, or minister plenipotentiary, minister extraordinary, minister resident, charge d'affairs, or commissioner or counsul of the United States, appointed to reside therein.

Actions. Common law forms of pleadings are used, but in some respects modified by statute. Non-resident plaintiffs must give security for costs.

Administration of Estates: In probate court of each county. Claims are passed on by judge of probate or commissioners appointed for each estate; within such time allowed by the court, not exceeding in first instance one year nor less than four months; may be extended not to exceed two years from date; the court may revive commission any time before estate is closed and allow further time three months to examine any claim; an appeal to circuit courts from allowance or disallowance of any claim. All claims barred, not presented before administration is closed:—

Administration of intestate estates is granted: 1st, to surviving husband or wife, or kin or grantee, or such one of them as judge may appoint, or as they may request. 2nd, to one or more of the principal creditors. 3rd, to such other person as the judge may think proper. Non-resident administrators and executors appointed in other states, territories, or foreign countries cannot sue as such in this State without procuring administration in this State.

Affidavits may be taken by any judge, master in chancery, clerk of court, justice of the peace, police magistrate, notary public, or circuit court commissioner. Any oath authorized or required to be made, without the State for use in judicial proceedings here, must be authenticated by judge of a court having a seal, and the genuineness of such judge's signature, existence of the court, and that such judge is a member thereof, certified by the clerk of the court under the seal thereof. If in any other state or territory, may be taken before a commissioner appointed by the governor of this State, or any notary public or justice of the peace authorized by the laws of any such state or territory to administer oaths therein.

In actions at law affidavits of amount due on open and stated accounts, attached to and served with process as commencement of suit make a prima facie case, unless denied by the defendant's affidavit filed and served with plea.

Aliens. May inherit or purchase and hold and convey personal and real estate.

Arbitration. Competent parties to any controversy which is or might be the subject of an action at law or suit in equity, may agree to arbitrate, and judgment of any circuit court rendered upon the award. No arbitration of claim of any person to any estate in fee or for life in real estate.

Arrest. By writ of capias in personal actions in tort and in actions for money collected by any public officer; or upon promise to marry; also by warrant allowed by any justice of the peace or judge of a court of record, under the fraudulent debtor's act, when the creditor has commenced suit or obtained judgment and the debtor has disposed of or concealed, or is about to dispose of or conceal property liable to execution, or the debt was fraudulently contracted.

Assignments for the benefit of creditors are void unless made without preferences; must comprise all of assignor's property not exempt from execution. The circuit court in chancery has supervisory jurisdiction of such assignments.

Attachments. Writs may be issued from justice and circuit courts on affidavit showing: debt due on express or implied contract, and either that the debtor has absconded or is about to abscond from the State or has assigned or disposed of or is about to assign and dispose of his property with intent to defraud his creditors; or is a non-resident of the state, or a foreign corporation. May issue from the circuit court for debt not due but to become due, upon satisfactory showing to the circuit judge, but in such cases judgment cannot be taken until debt is due. May issue in actions of tort against non-residents in certain cases.

Banks. Incorporation of:—Any number of persons not less than five may associate to establish for a period not to exceed thirty years, commercial banks, savings banks, and banks having for both classes. Capital required is graded—$20,000 to $250,000, according to population of cities or villages where conducted. Upon filing articles of association, commissioner of banking department and Secretary of State issue certificates of organization; board of directors chosen by the stockholders. No more than the legal rate of interest in advance shall be received; file correct list of stockholders with commissioner of banking, and county clerk and report four times a year to be published in newspaper where bank is conducted. Commercial loans, not to exceed 50 per cent of the capital, on real estate securities, by two-thirds vote of directors, except to secure debts due the bank. Savings deposits payable as directors prescribe; commercial deposits payable on demand. Banks combining commercial and savings deposits cannot issue post notes nor any bill or note or certificate as money. Savings depositors preferred in distribution of savings department funds. Stockholders individually liable equally and ratably and not one for another to the amount of the par value of stock, for the benefit of depositors. All transfers of property, and payments of money after actual or contemplated insolvency to prevent legal application of assets null and void; total liabilities of any borrower shall not exceed one-tenth part of the whole capital and surplus, may be increased to one-fifth by two-thirds vote of directors; not to issue certificates of deposit for borrowed money nor make partial payments on such certificates; not liable to depositors for payment of a forged or raised check unless notified within three months after return of voucher.

All shares of bank stock shall be assessed against their owners in the township, village, or city where the bank is located, taxes not paid by stockholders, bank's duty to pay.

Trust deposit and security companies may be incorporated under the general laws of the State applicable thereto. Seven or more persons may associate to establish—capital graded from $100,000 to $5,000,000 according to population of cities where conducted; deposit with the state treasurer 50 per cent of the capital stock in bonds or real estate mortgages worth double the amount secured; powers such as are customary for trust companies. They cannot do any banking business.

Collaterals. Stocks, bonds or other personal property pledged as collateral security for payment of money or the performance of any obligation, upon default may be sold at public (or private sale if so authorized by the contract) to satisfy the debt; but before public sale, ten days notice must be given and served on pledger or legal representative personally or by mail; such sale must be between nine o'clock forenoon and sunset, at a public place in the township, city, or village where held.

Conditional Sales. Are valid between the parties: if consignee or purchaser, on condition title is retained by seller, is authorized by the contract to sell, all such sales are valid. The consignee or purchaser cannot make valid sales against the legal owner without the authority of consignor or legal owner. (See Liens.) (See Frauds.)

Conveyances. Any person of full age or otherwise capable may convey by deed any interest in lands, whether in actual possession or not. All grants and devises of lands to two or more persons create estates in common; no joint tenancy, unless expressly so declared, except such as are made in trust or to executors, and except such as are made to husband and wife, who take as "tenants by entirety." The words "conveys and warrants" in the deed describing the premises and specifying the consideration, dated, duly signed and acknowledged by grantor are sufficient to convey title in fee simple and to warrant, that grantor and his heirs and personal representatives is seized of the premises, has good right to convey same, guarantees quiet possession thereof, and that he will warrant and defend the title against all lawful claims. The words "conveys and quit claims" duly signed, sealed and acknowledged by grantor are sufficient to convey grantor's interest. The words "mortgages and warrants" and duly described premises, specifying "to secure the payment" and reciting the sum for which mortgage is given and the notes and other evidences of debt secured thereby, mortgage being dated, signed, sealed and acknowledged by grantor, is sufficient and warrants perfect title in the grantor and against all previous incumbrances; omitting the word "warrants" sufficient, but without any warranty. Dower and homestead rights not waived unless wife joins in the mortgage. No homestead right will avail against the mortgagee if there is no wife, nor if wife joins in the mortgage. Married women of full age joining with husbands in any deed, mortgage, power of attorney or other writing, shall be bound in respect to their own title.

Corporations. Banks, mining, manufacturing, insurance—fire, marine, accident, burglary—printing and publishing, manufacturing and mercantile, or a union of the two, partnership associations, real estate associations, real estate, railroads, street railways, co-operative benefit associations, co-operative savings associations, and religious societies, are respectively organized under State general laws; required to file with the secretary of state, articles of association.

Business Corporations. Three or more persons may organize. One half of capital must be actually subscribed and at least 10 per cent either in money or property must be paid in; if in property same must be for the purpose of the business, and described and its value specified in the articles. Stockholders vote in person or by proxy. Each share has as many votes for directors as directory numbers, and the aggregate vote may be distributed for one or more of directors. May issue preferred and common stock of the par value of $10 or $100. Preferred entitled to dividend not to exceed 8 per cent quarterly, semi-annually or annually and if not paid be accumulated, and paid, before any dividend paid on the common. Articles of association to be recorded in the county clerk's office of county where operations carried on, and office of the secretary of state. May hold real estate for the purpose of the corporation and such as acquired as security or in payment of debts; managed by not less than three directors chosen by the stockholders annually hold office until successors are chosen; make duplicate reports in January or February annually for the fiscal year last ending, of the financial condition and property of the corporation to secretary of state; stockholders are liable for labor debts; they make all by-laws for corporation. Foreign corporations organized under the laws of any other state of the United states or of any foreign country, unlawful to carry on business in this state until certificate of authority procured from secretary of State; not capable of making valid contracts in this state until authorized to carry on business; unlawful for any person to act as agent of until authorized to do business. Sales of goods or merchandise by the right of inter-state commerce not affected by state laws.

Courts. Terms and Jurisdiction. Circuit courts, holding two or more terms annually in each county, have original jurisdiction in all cases of law and equity wherein the amount in controversy is $100 and upwards; and have appellate jurisdiction from justice of the peace probate courts and other inferior tribunals. Justice courts in each county have jurisdiction of cases at law involving from $100 to $500. In Grand Rapids is a "Superior Court" for civil cases, limited to parties resident of the city. Probate courts in each county have jurisdiction of estates of deceased persons and testamentary trusts. Supreme court has final appellate jurisdiction from circuit, municipal and recorders' courts.

Days of Grace. Abolished.

Depositions. Testimony of any witness without the State or more than fifty miles from the court may be taken de bene esse, before any judge of any state or of the United States, or of any foreign country, or before any circuit court commissioner in this or any other state or of the United States, or any commissioner of this State, any consul or consular officer, justice of the peace, officer or notary public authorized to administer oaths in the state or county where taken and not interested as attorney or counsel or in the event of the cause; reasonable notice given in writing by party or his attorney proposing to take, to opposite party or his attorney of record, stating names of witnesses, time and place of taking and official before whom to be taken. Commissions to take depositions of any witnesses may be issued by circuit court wherein the suit is pending or by the judge or register thereof, or by a justice of the peace in a suit before him on written interrogatives. Fees for taking, certifying, sealing and forwarding $2; for each 100 words in deposition ten cents and copies three cents. Each party pays for his own examination or cross examination in the first instance.

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Descent. Real estate and personal property of intestate after payment of debts and administration expenses and allowances, as follows:

Real Property. One-third to widow, remaining two-thirds to his issue; if no widow the whole to his issue to share equally if of same degree of kindred to intestate, otherwise by representation; if no issue, husband or widow to the father and mother in equal shares, if only one living to the survivor alone. If surviving husband or widow and no issue, one-half to such survivor, remainder to father and mother or their survivor. If no issue or parents, husband or widow, equally to brothers and sisters and the children of deceased brothers and sisters; if none such relatives, to next of kin in equal degree through nearest ancestor; if any unmarried child dies under age, his or her inheritance from any parent, to other surviving children of same parent and their issue by representation. If husband or wife survive and no issue, parents, brothers or sisters, or their children to husband or wife, and if no foregoing relatives whomsoever estate escheats to State. Illegitimates heir to mother; dying intestate estate descends to mother or her relatives if she be dead; become legitimate by parents, intermarriage or father's written acknowledgment. The foregoing provisions for the widow are in lieu of dower and homestead right unless one year after administration granted she applies for assignment of dower and homestead in which case her interest in deceased husband's lands is limited to the dower and homestead right and the residue shall descend as above provided for that portion not taken by her.

Personal Estate. Residue—one-third to widow, two-thirds to children or issue by representation; one child; one-half to child and one-half to widow; no widow or child; to all lineal descendants equally. If widow and no children or issue, to widow, not exceeding $3,000; estate excess of that; one-half excess to widow, other half to surviving parents, and if none such to brothers or sisters; and none such, all such excess to widow. Married women intestate, one-third to husband, two-thirds to her children or their issue by representation; only one child or issue of deceased child; to husband and such child equally; if no child or issue of deceased child, one-half to husband and other half to surviving parents, and if none; to brothers or sisters or issue of them and if none, all to husband. In any other case same as for real property. Estates by courtesy abolished.

Dower. Wife entitled to use of one-third part of all lands owned by her husband as estate of inheritance any time during marriage. No dower as against mortgages for purchase price, or mortgages made before marriage, except in surplus. Must exercise option to take dower in lieu of rights under will or statute within one year after administration; residing in this State and eighteen years of age and upwards may bar by joining in husband's conveyances and mortgages or by deed alone to one who has husband's title, intent to bar being expressed; or by jointure secured as bar.

Execution. May issue to any county at once, unless stayed after judgment in circuit court, in justice courts, expiration of five days; not liens on real estate or personal property until levy by proper officer. Real estate is sold without appraisement to the highest bidder, except homestead, to determine excess of value above $1,500 redemption claim. Defendant or his heirs or assigns may redeem within twelve months, his judgment creditors and others having valid liens within fifteen months from date of sale. Execution against the body may be issued on all judgments in actions of tort. Personal property levied on, after setting off exemptions, may be sold on six days' notice at public sale, to highest bidder to a sufficient amount to satisfy the debt and costs; no redemption after such sales. Executions from justice courts do not run against real estate.

Exemptions. Homestead—selected by the owner and occupied by him; not exceeding forty acres of land and dwelling thereon; or one lot with dwelling thereon within any recorded town plat or city or village not exceeding in value $1,500. Same cannot be alienated or incumbered without consent of wife or sold on any execution or any other final process from any court, unless appraised to exceed the value of $1,500 and that amount is paid or realized on sale under such process. Exemption of homestead continues during its occupation by the widow or minor children of deceased person who when living occupied the same.

Fraud. Criminal fraud—obtaining the signature of any person, firm, or corporation with intent to defraud fraudulently issuing or selling or duplicating and disposing of any stock, scrip, or evidence of debt of any bank or other incorporated company of this State; issue of any false receipts by warehousemen, merchants, or their agents—receipt; or to wrongfully dispose of or convert property to their own use after issuing receipt; wrongfully removing or disposing of any personal property by any agent delivered upon written agreement or instructions; wrongfully to dispose of property covered by chattel mortgage by mortgagors or of property held by contract of purchase without legal title by such purchaser or of property held under any lease by lessor. For any officer or stockholder of any bank or any other person for such bank; to sign, issue or knowingly put in circulation any note or bill of any such bank, before the capital stock is paid in, or before the president and directors thereof have complied with the law; for any officer or agent of any bank knowing such bank to be insolvent or in contemplation of insolvency, or for any assignee of the property of such bank to sell or dispose of any money or property of such bank with intent to defraud, delay or hinder creditors thereof; or for any agent or person to fraudulently obtain or dispose of any money belonging to any insurance company organized in this State.

Frauds—Statute of. No executor or administrator is liable on any special promise to answer damages out of his own estates.

Fraud, Civil. Sales, transfers and assignments of stocks of goods, wares merchandise and fixtures in bulk pertaining to conduct of any business, otherwise than in ordinary course of trade of seller, etc., void as against creditors, unless the seller, etc., five days before sale, make inventory of the goods and cost price to seller of each article and unless the purchaser demands from seller list of names and addresses of creditors and his indebtedness, and within five days before taking possession and payment notifies every creditor of such sale.

Garnishment. Process may issue in any action brought in any justice court or circuit court on contract expressed or implied, judgment or decree, to hold whatever property any person may own or have belonging to the debtor. Bills of exchange and promissory notes due in the garnishee's hands at the time of serving summons are garnishable. Property, real or personal, things in action, equitable interests, held by fraudulent transfer from the debtor and any property liable to execution or to the payment of the debts of the debtor in the garnishee's hands may be recovered; wages of any householder not more than $30 and less than $8 for his personal labor, and of any other person for labor not more than $15 and not less than $4; and benefits payable by fraternal beneficiary societies, shares in building and loan association of any debtor, except as to one having a homestead exemption, are exempt from garnishment.

Husband and Wife. If sued together she may defend and if either neglect to defend the other may be ordered to defend for both. If he deserts her she may be authorized by the probate court to prosecute or defend in his name. If either wrongfully retains the other's property, acquired before or after marriage, the owner may sue for same as if unmarried. Neither liable for the debts of the other before or after marriage, nor earnings or property of either nor the income thereof; nor shall either be liable to make compensation for labor or services rendered for the other. Either may constitute the other an attorney in fact to dispose of property. Expenses of family and children's education are not chargeable upon the property of the wife but are chargeable against the husband and he may be sued therefor.

Interest. Legal rate 5 per cent but by written agreement may be charged not to exceed 7 per cent. Forfeiture of all interest is penalty for usury. When any installment of interest upon any note, bond, mortgage or other written contract shall become due and remains unpaid, interest is allowed on such installment from the time it became due at same rate specified in the obligation or at the legal rate. Legal rate collectable on all moneys due on any written obligations and on all moneys due on all contracts express or implied, whether verbal or written; and on settlement of accounts from day of ascertaining balance due; and on judgments from day of entry; and on verdicts of jury from date to date of entry of judgments thereon. In computing time of interest and discount on negotiable paper, a month means a calendar month and a year a calendar year of twelve months.

Judgments of courts of record are not liens on real estate or personal property until by levy thereon of execution issued from the courts upon such judgments. Liens under execution levied upon real estate exist five years from and after the levy. Judgments expire by limitation in ten years from date of entering in courts of record and six years in justice courts, and cannot be renewed except by action at law thereon before expiration. Judgments of the justice of the peace may be entered in the circuit courts on transcript duly taken to the circuit court and thereupon become judgments of such circuit courts.

Liens. Any person, who pursuant to a contract with any owner, part owner or leasee of any land, furnishes labor or materials in the construction of a building, etc., on such land, shall have a lien on such structure and land to the extent of one quarter section or if in a city or village, the lot or lots upon which such structure is situated. And any sub-contractor, who furnishes materials or labor in carrying forward or completing such contract shall have a lien upon such building and land to the extent of the interest of such owner, etc. Any person, artisan, or tradesman for labor and skill applied upon any property delivered for that purpose shall have a prior lien for amount due for such labor. Hotels, boarding houses and lodging houses have a lien upon baggage and other valuables of guests, boarders or lodgers for accommodations. Any person keeping and caring for domestic animals intrusted to them for that purpose have a lien for proper charges.

Limitation of Suits. Judgments of courts of record and sealed instruments ten years, justice court judgments six years; accounts and notes and other simple contracts and for taking, detaining or injuring goods and chattels, six years from the date the action accrued; revivor: part payment, or promise in writing to pay. Absences from the State deducted from the period of limitation. Mortgages fifteen years after due or after last payment thereon. For trespasses on lands, assault and battery, false imprisonment, slanderous words or libels and mal-practice against physicians, surgeons, and dentists, two years. For misconduct of sheriff or their deputies, three years, and for personal injuries three years. For the recovery of real property, five years where the claim arises against executors, guardian's or sheriff's deed; five years where the defendant claims and is in possession of lands under deed made by auditor general of this State for taxes; and by minors and others under legal disabilities three years after removal of such disabilities; in all other cases fifteen years.

Limited Partnerships. May consist of one or more general and one or more special partners. Specials contribute specific amount of capital in cash or property at cash value, and if actually paid in not liable for firm's debts in excess of such special capital. General partners transact the business of the firm.

Married Women. May make contracts in respect to their own property and may hold and enjoy, and have the same rights and remedies regarding their property as if unmarried. They may carry on business in their own names with their own property by consent of their husbands; cannot enter into partnership with husband or any other person and become liable for the firm contracts. Married women's contracts to pay or to become liable for debts of husbands or other person voidable, may however charge their real estate or personal property to secure such indebtedness by deed, mortgage or contract. Married women are entitled to have and to hold their earnings made by their own personal effort, and may make any contracts relative thereto.

Mortgages on real estate, executed and acknowledged the same as deeds; may be foreclosed under power of sale by advertisement or in circuit court in chancery of the county wherein the property is situated. Trust deeds not in customary use but may be made and executed and will be treated as mortgages.

Chattel mortgages and bills of sale; intended as security by mortgagor, signed and delivered to the mortgagee, sufficient between the parties, but void as to creditors, subsequent purchasers and encumbrancers in good faith and without notice, unless such mortgages and bills of sale or true copies are filed in the city or township clerk's office where mortgagor resides, or if non-resident of State, in city or township where the property is situated; and unless affidavit of mortgagor or of some one for him having knowledge of the facts is annexed to the mortgage or bill of sale, showing consideration is actual and adequate and in good faith. Without such affidavit officers forbade to receive and file such mortgages; cease to be valid against creditors, subsequent purchasers, and encumbrancers in good faith, on expiration of year from filing date, unless renewed within thirty days next preceding expiration by affidavit of mortgagee showing his interest, etc., filed and annexed to the mortgage in said clerk's office; likewise each succeeding year while the mortgage exists.

Negotiable Instruments. A promissory note is an unconditional promise in writing to pay a sum certain in money, on demand, or at a fixed and determinate future time, to the order of a specified person or to bearer.

A bill of exchange is an unconditional order of one person to another requiring the drawee to pay to a certain person, or order, or bearer on demand or at a fixed or determinate future time a certain sum of money. May be payable in installments and contain provisions that on default the whole sum of money shall become due with exchange, fixed or current rate, interest and attorney's fees for collection. May authorize sale of collaterals and confession of judgments. If it reads "I promise to pay," all makers are jointly and severally liable. Must not be payable upon contingency. Cannot waive exemption from execution. Need not specify "for value received" nor place where drawn or payable. If issued, accepted, or indorsed when over due is payable on demand. May be payable to two or more payees jointly or one or more of several payees. Want or failure of consideration, a defense against one not a holder in due course, partial failure a defense pro-tanto. One not a party, or the payee of the paper placing a signature in blank on the paper before delivery becomes an endorser. Indorser engages on due presentment the paper shall be honored and that he will pay to holder or any subsequent indorser, who may be compelled to pay; where maturity falls on Sunday or on a holiday, payment due on the next business day; but where all of such day not a holiday may if payable on demand be presented before noon.

Fraud in procuring signatures and delivery defense against any holder.

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Presentment not necessary to charge anyone primarily liable. If not payable on demand present on the day due; if on demand present within a reasonable time after issue; bill of exchange payable on demand present reasonable time after last negotiation.

Fraudulent or material alterations do not affect the original instruments in the hands of innocent holder in due course.

Unconditional promise in writing to accept a bill of exchange, given before or after drawn, valid in favor of all who take it upon faith thereof for value; holder may decline qualified acceptance; if he takes qualified acceptance, drawers and indorsers are discharged.

Protest of foreign bills of exchange may be made by a notary public or any respectable resident of the place of payment in the presence of two or more creditable witnesses; drawee is not liable unless he accepts. Check or a bill of exchange on a bank payable on demand, must be presented reasonable time after issue, and if dishonored notice must be given or drawer is discharged to extent of loss caused;does not operate to assign any part of drawer's funds; bank is not liable unless it accepts or certifies. If holder has check certified drawers and indorsers are discharged.

The present negotiable instruments law of Michigan took effect Sept. 16, 1905, and repeals all acts or parts of acts inconsistent with its provisions; but does not apply to instruments made prior thereto; materially changes the law in this State and should receive special examination in every doubtful case.

Power of Attorney. Almost every act that any person, firm or corporation may perform, may be performed by an attorney in fact. Conveyances, mortgages, or leases for more than three years' term by attorney in fact, the power of attorney must be in writing signed, sealed and acknowledged same as a deed of lands, to be admitted for record or to proof thereof.

Probate Law. (See Administration of Estates.)

Protest. (See Negotiable Instruments.)

Replevin. Goods or chattels wrongfully taken or detained may be replevined by owner or part owner or party entitled to possession. Affidavit of plaintiff or agent necessary for issue of writ. If from circuit courts plaintiff required to give bond with sufficient sureties to the officer within twenty-four hours after seizure and appraisal of the property which must not be delivered to plaintiff within forty-eight hours; and in the meantime if the defendant shall give sufficient bond to the officer he shall return the property to the same person from whom he took it; in that case if plaintiff recovers he may recover on the defendant's bond; if he fails defendant may recover on plaintiff's bond according as the judgment may warrant. In justice courts bond with sufficient sureties must be given and filed in double value of the property before writ issues.

Taxes. State and county payable every year after December 1st, delivered to county treasurer March 1st, thereafter, and if delinquent bear interest 1 per cent per month. Returned to auditor general of State, if not paid, and by him enforced by foreclosure in chancery in every county, and the taxable property sold under decree of the court by county treasurer each parcel for the amount of taxes and charges against same; redeemable one year thereafter and does not become absolute until proceedings taken by purchaser for writ of assistance, which must be instituted within five years by service of written notice upon owners six months before application for such writ. If decree regular and property taxable, and due notice is given and served, purchaser is entitled, upon due proof thereof to writ of assistance and possession unless redeemed pending the notice by payment of double the amount paid by purchaser and $5.00 for each parcel redeemed. City taxes are governed by charter or by the general act under which cities and villages are organized.

Wills. Codicils. Every person of full age (twenty-one years) and of sound mind may make; must be in writing, signed by testator or by some person in his or her presence duly authorized by him or her and attested and subscribed in his or her presence by two or more witnesses competent as such at the time. If one of the subscribing witnesses shall testify to the execution of the will in all particulars and testator was of sound mind at the time will was made, the court may admit the will, in case no person appears to contest it; if none of the witnesses reside in the State at the time of proving the will, the court may admit the testimony of other witnesses to prove testator's sanity and execution and proof of the signature of testator and subscribing witnesses. Probate of will conclusive of its due execution and cannot be assailed collaterally. Foreign wills, duly admitted to probate without the State, may be admitted and recorded in any county of the State in which testator left real or personal estate by duly filing, an exemplified copy of said will and of the record admitting same to probate. A nuncupative will in which the value of the estate bequeathed does not exceed $300, duly proved by two witnesses, may be allowed. Wills may be revoked by burning, tearing, cancelling, or obliterating with intention of revoking same by testator, or by some other writing signed, attested, and subscribed in the manner provided for execution of wills but shall prevent revocation implied by law.

SYNOPSIS OF

THE LAWS OF MINNESOTA

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by DURMENT, MOORE & OPPENHEIMER, Attorneys at Law, St. Paul. (See Card in Attorneys' List.)

Acknowledgments may be certified by the following officers: 1. Within the State by a resident judge, clerk or deputy clerk of any court of record therein, a notary public, justice of the peace, town, city or village clerk, or recorder, court commissioner, register of deeds, or county auditor, or their deputies, county commissioner, or member of the legislature. 2. Out of the State but in the United States by a judge of the supreme, circuit, or district courts of the United States, or of any court of record of any state, territory, or district, the clerk or a deputy clerk of any such court, a notary, a justice of the peace, or any commissioner appointed by the governor of this State for that purpose. 3. In foreign countries by a notary public, or by any minister, chargé d'affaires, commissioner, consul, commercial agent or other consular or diplomatic officer of the United States appointed to reside in such country, and deputies or other representatives of such officers. The form of the certificate may be, "On this.....day of....., 19...., before me personally appeared.....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." In case of corporation it may be, "On this .....day of.....19.., 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 (name of corporation), that the seal affixed to the foregoing instrument is the corporate seal of said corporation and that said instrument was executed in behalf of said corporation by authority of its board of directors, and said A. B acknowledged said instrument to be the free act and deed of said corporation." If made outside the State the impression of the official seal of the certifying officer must be affixed, or there must be attached the certificate of the clerk of a court of record of the county or district in which it is made under his seal that the signature of the certifying officer is genuine.

Actions. The distinction between actions at law and suits in equity is abolished. There is only one form of action. It is called a civil action and must be prosecuted in the name of the real party in interest except that executors, administrators, trustee of an express trust and persons expressly authorized by statute may sue without joining the person for whose benefit the suit is brought.

Administration of Estates. Estates of deceased persons are administered in probate courts of which there is one in each county presided over by the probate judge of the county.

In granting letters of administration preference is given: 1. To the surviving spouse or next of kin or such suitable person as they or either of them select. 2. If no application is made for thirty days after death of intestate, to principal creditor or creditors, or some person interested, and if deceased was native of foreign country to the consul or other representative of that country residing in this State, or to such competent and suitable person as he may select.

Upon granting letters the court makes an order limiting the time within which creditors may present their claims. This time must not be less than six or more than twelve months; but may be extended for good cause to a date not more than eighteen months after notice given of the order. On proof by affidavit that there are no debts the time limited may be three months. Notice of the order is given by publication thereof once each week for three weeks in a newspaper in the county. Claims not presented within time limited are barred. Non-resident executors and administrators may sue in this State.

Aliens. (See right to hold property.)

Arbitration. All controversies which can be the subject of a civil action may be submitted to one or more arbitrators for decision, except a claim to an estate in fee or for life in real estate.

Arrest. There is no arrest for debt.

Assignments. Statutes relating to assignments for the benefit of creditors are in force except as affected by the U. S. Bankruptcy Act of 1898.

Practically they may be said to be superseded by that act.

Attachment. Before allowing a writ of attachment, the court must require of the plaintiff a bond in the sum of at least $250, and an affidavit of the plaintiff, his agent or attorney. (1) That the debt was fraudulently contracted or (2) the defendant is a foreign corporation or non-resident or (3) has departed from the State as he believes with intent to defraud or delay his creditors, or to avoid the service of a summons or keeps himself concealed therein with like intent or (4) has assigned, secreted, or disposed of his property with intent to delay or defraud his creditors or is about to do so.

Banks. Three or more persons may incorporate as a bank. Capital required is $10,000 in towns of 1,000 or less population; $15,000 in towns of 1,000 to 1,500; $20,000 in towns of 1,500 to 2,000; and $25,000 in towns exceeding 2,000 population. Capital stock must be fully paid in cash before bank can do business. Stockholders are individually liable for debts of bank in an additional amount equal to the par value of stock owned by them, and this liability continues one year after any transfer of the stock. At least one-fifth of the net profits must be placed in surplus fund before any dividend is paid until the surplus amounts to 20 per cent of the capital,and this surplus must be maintained unimpaired.

Every bank must make to the superintendent of banks not less than four reports each year which must be published. Liabilities to a bank of any person, corporation or firm, for money borrowed, including therein liabilities of the several members thereof, shall at no time exceed 15 per cent of its capital and surplus. It must have a reserve equal to one-fifth of all its matured or demandable liabilities, one-half of which must be cash, and the remainder may be balances due from solvent banks. In case of insolvency or violation of the banking laws, the superintendent of banks may take possession, and apply to the court for a receiver.

Bills of Lading. Uniform Warehouse Receipts Act, Effective April 2, 1913. Warehouse receipts and bills of lading for property

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in transit, unless the words "not negotiable" appear plainly on the face thereof, are transferred by endorsement which shall carry the title to the property and all rights of the endorser therein.

Initial Carrier receiving property for transportation between points within the State, liable for loss, damage or injury caused by it or other carrier en route, and all contrary provisions in Bill of Lading void.

Chattel Mortgages. Every mortgage of personal property which is not accompanied by immediate delivery and followed by actual and continued change of possession is void as to creditors and subsequent purchasers and mortgagees in good faith, unless it is made in good faith, attested by two witnesses, acknowledged and filed with the register of deeds of the county in which the mortgagor resided at the time of its execution, if a resident of the State, or of that in which the property was then situated if a non-resident. If the mortgagor resides in St. Paul, Minneapolis or Duluth or is a non-resident, and the property is situated there, the mortgage must be filed with the city clerk of such city instead of the register of deeds of the county. Duplicates or copies certified by any officer with whom the mortgage has been properly filed, may be filed in other places wherein any part of the property was situated when the same was made. As against creditors of the mortgagor and subsequent purchasers and mortgagees in good faith the lien does not continue beyond the term of six years from the date of filing the mortgage unless the indebtedness is not then due and payable by its terms, in which case it continues two years after the maturity of the debt and no longer.

Chattel mortgages given by a married man or woman on property exempt from execution must be executed by both husband and wife if living.

Conveyances. Deeds and mortgages of real estate must be executed in the presence of two subscribing witnesses and to entitle them to record must be acknowledged by the person executing the same. Conveyances made out of the State may be executed as above, or according to the laws of the place of execution.

Corporations. May be organized by any number of persons, not less than three, for the purpose of engaging in any lawful business. The amount of capital stock shall in no case be less than $10,000, divided into shares of not less than $1.00 or more than $100. The incorporators must sign and acknowledge a certificate specifying; 1. the name, general nature of business and principal place of transacting the same. 2. Period of its duration if limited. 3. Names and places of residence of incorporators. 4. In what board management is vested, date of annual meeting at which such board shall be elected, names and addresses of persons composing board until first election. 5. Amount of capital stock, how the same is to be paid, number of shares and par value of each, and if more than one class, a description, and terms of issue and method of voting of each. 6. Highest amount of indebtedness to which corporation shall be subject. This certificate is filed with the secretary of state and with the register of deeds of the county in which the principal place of business is located and published in such county two successive days in a daily newspaper, or two successive weeks in a weekly.

Every stockholder in any corporation, except those organized for the purpose of carrying on a manufacturing or mechanical business is liable to creditors of the corporation in an amount equal to the par value of the stock owned by him.

Foreign Corporations. Every foreign corporation organized for pecuniary profit before it can transact or continue business in this State, acquire, hold or dispose of property or bring suit here must maintain a public office here, appoint an agent residing in the county where such office is located, authorized to accept service of process, and must file with the secretary of state an authenticated copy of such appointment and of its charter and a verified statement showing the proportion of its capital stock represented by its property and business in this State, and upon that it must pay a fee. This act does not apply to exclusively manufacturing corporations, traveling salesmen soliciting business for non-resident corporations, nor to those engaged only in the business of loaning money or investing in securities, nor to those organized to raise and improve live stock, cultivate farms, can fruits or vegetables, nor to those whose sole business is transportation of freight or passengers by water.

Courts. District courts hold one or more terms a year in each organized county, have original jurisdiction in all civil actions at law and in equity, and in all criminal cases where the punishment exceeds three months' imprisonment or a fine of more than $100.

The supreme court has appellate jurisdiction in all cases, but there is no trial by jury in that court. It has original jurisdiction in such remedial cases as are prescribed by law.

Probate courts have exclusive jurisdiction of matters connected with the settlement of estates of deceased persons, minors, and insane persons. Terms are held on the first Monday of each month in each organized county.

Municipal courts exist in certain cities, and are courts of record with limited jurisdiction in civil and criminal actions.

Justices of the peace have no jurisdiction in civil actions where the amount involved exceeds $100.

Days of Grace are abolished.

Depositions may be taken at any place within or without the State upon notice in writing, stating the reason for taking the same, the time and place, and giving the opposite party one day for preparation, and one day for every 100 miles, exclusive of Sundays and the day of service, before any officer authorized to administer oaths.

Descent and Distribution of Property. Homestead descends to surviving spouse for life, remainder to children and issue of deceased children. If no children or issue of deceased child, then to surviving spouse in fee, exempt from debts not a valid charge thereon at time of intestate's death. After payment of debts and certain allowances to the surviving spouse out of the personal property, the residue of the estate descends as follows: 1. One-third to the surviving spouse, balance in equal shares to children and lawful issue of deceased child by right of representation. 2. If no surviving child, or lawful issue of deceased child, the whole estate descends to surviving spouse if any. 3. If no issue or surviving spouse, to father and mother in equal shares, or if but one survive, to such survivor. 4. If no surviving issue, spouse, father or mother, in equal shares to brothers and sisters and lawful issue of deceased brother or sister. 5. If no issue, spouse, father, mother, brother, sister, or living issue of deceased brother or sister, to next of kin, in equal degree, but those who claim through nearest ancestor preferred to those claiming through ancestor more remote. 6. If no spouse or kindred, to the State.

Dower is abolished.

Employers Liability Act, Effective since April 24, 1913.

Executions issue from district courts any time within ten years after judgment and may run to any county where judgment is docketed are returnable in sixty days and may be renewed for sixty days at a time on request of judgment creditor or his attorney. Personal property is sold on ten days' posted notice; real estate on six weeks' published notice, and subject to redemption by judgment debtor or his assigns within one year from date of sale.

Exemptions. Homestead outside of incorporated municipality may include eighty acres. If in incorporated place containing less than 5,000 inhabitants, its area shall not exceed one-half acre, and in larger incorporated places one-third of an acre without regard to value. Family pictures, library, musical instruments for use of family, wearing apparel, beds, stoves, cooking utensils used by family, other household furniture not exceeding $500 in value, three cows, ten swine, one yoke of oxen and a horse, or in lieu thereof, a span of horses or mules, twenty sheep, the wool therefrom raw or manufactured, food for such stock for one year's supply, one wagon, cart or dray, one sleigh, two plows, one drag, and other farming utensils not exceeding $300 in value, provisions for debtor's family for one year's support, tools kept for purpose of carrying on trade, and stock manufactured in whole or in part by debtor not exceeding in value $400; library of professional man; presses, type, and tools of publisher of newspaper not exceeding $2,000, and his stock in trade not exceeding $400; watch, sewing machine, typewriter, bicycle, seed for use of debtor for one season not exceeding certain amounts; library and apparatus of college or school; money payable to wife or child from insurance on life of deceased husband or father not exceeding $10,000; money or relief from benefit association; money from insurance on exempt property; wages not exceeding $35 for services rendered during preceding 30 days; but all wages paid and earned within said thirty day period shall be considered a part of (or all) of said exemption (chap. 202, Laws 1915.)

Holidays. January 1st; February 12th and 22d; Good Friday; May 30th; July 4th; first Monday in September; Tuesday after first Monday in November, each even-numbered year (election day), and December 25th are legal holidays. Thanksgiving day is so far that negotiable instruments or contracts due that day are payable next succeeding business day.

Interest. Six per cent is legal rate, but by special contract any rate not exceeding 10 per cent may be exacted. Usurious contracts are void.

Judgments may be entered by default in district courts at expiration of twenty days after service of summons. When docketed in those courts they become liens upon all real estate of the debtor in the county where docketed then owned by him or afterwards acquired, and the lien continues for ten years after the entry of the judgment. Transcripts of judgments in justice and municipal courts may be filed in district court and there docketed, and then become lien on real estate.

Liens. To preserve a mechanic's lien a verified statement must be filed by the lien claimant within ninety days after furnishing the last item of labor or material in the office of the register of deeds of the county in which the improved premises are situated, or if claimed upon a line of railway or its appurtenances with the secretary of state.

Limitation of Actions. On contracts express or implied six years; judgments ten years; to foreclose mortgages fifteen years; to recover real estate, fifteen years. But no action shall be maintained on a judgment note, or other instrument authorizing Confession of Judgment unless begun within one year after Cause of Action accrued; and no action shall be maintained upon any Judgment of any Court of the U. S. or of any State or Territory entered by Confession under a warrant of attorney, unless the action upon such judgment be begun within one year after the rendition or entry thereof.

Married Women. Property acquired by wife before or after marriage remains her separate estate. It is liable for her debts and torts to the same extent as if she were unmarried, and she may make any contract which she could make if unmarried, except that no conveyance or contract for sale of her homestead or any interest therein is valid unless her husband joins in the same.

Both husband and wife are liable for necessaries furnished to and used by the family.

Mortgages on real estate executed in the presence of two subscribing witnesses, acknowledged and recorded in the office of the register of deeds of the county in which the mortgaged premises are situated may be foreclosed by publication or by action. The mortgagor or his assigns may redeem within one year from the date of the foreclosure sale.

The authority of an attorney conducting a foreclosure by advertisement, must be in the form of a Power of Attorney, executed and acknowledged by the mortgagee or assignee in the same manner as a conveyance and recorded prior to the sale in the County where the foreclosure proceedings are had.

The mortgagor may covenant to pay or authorize the mortgagee to retain any attorney's fee in case of foreclosure of not exceeding $25; where the mortgage debt does not exceed $500; $50 where the mortgage debt exceeds $500 and does not exceed $1,000; $75 where the mortgage debt exceeds $1,000 and does not exceed $5,000; $100 where the mortgage debt exceeds $5,000 but does not exceed $10,000; and $200 where the mortgage debt exceeds $10,000.

A Registry Tax of 15 cents is imposed upon each $100 or fraction thereof of the principal debt secured by any mortgage covering property within the State of Minnesota and recorded in said State. In case the maturity of the debt so secured shall be fixed at a date more than five years after the date of said mortgage, the amount of such Registry Tax shall be at the rate of 25 cents on each $100. No such mortgage or assignment or satisfaction thereof or papers relating to its foreclosure, shall be recorded or registered unless such tax has been paid, nor shall any such document or record thereof be received in evidence in any court or have any validity as notice or otherwise. If such mortgage describe real estate outside of Minnesota, such tax shall be imposed upon such proportion of the whole debt secured as the value of the real estate described in this State bears to the value of the whole real estate, such value to be determined by the State Auditor upon application of the mortgagee.

Notes and Bills of Exchange. Uniform Negotiable. Instruments Law has been in force since April 15, 1913. Commercial paper is payable at the time fixed therein without grace. When due or payable on Saturday or on Sunday, or any legal or bank holiday, the same is payable upon the business day next succeeding, and may be protested on such succeeding day.

Right to Hold Property. No person unless he be a citizen of the United States, or has declared his intention to become a citizen, and no corporation unless created under the laws of the United States, or of some state thereof, shall acquire lands exceeding 90,000 square feet, except by devise, inheritance, or through security for indebtedness. This does not apply to actual settlers on farms not exceeding 160 acres, or to subjects of a foreign country, whose rights to hold lands are secured by treaty.

No corporation, more than 20 per cent of whose stock is owned by persons not citizens of the United States, or by corporations not created under its laws, or those of some state thereof, can acquire lands, and no corporation unless organized for the construction of operation of a railway canal or turnpike can acquire more than 5,000 acres or more than is necessary for its operation, and lands granted it by the State or United States.

But this does not apply to lands acquiredin the collection of debts, nor to a person or corporation engaged in selling lands to actual settlers, or engaged in manufacturing in Minnesota while so engaged. Such persons or corporations not so engaged must sell what they had April 13, 1911, within ten years from that date and sell what they acquire subsequent to that date within ten years after they acquire it.

Taxes on real estate may be paid one-half before the first day of June and one-half before the first day of November of the year following the levy thereof, and if not so paid a penalty of 10 per cent attaches. If taxes on personal property are not paid before March 1st of the year following the levy thereof, a penalty of 10 per cent attaches.

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Wills. Every person of full age and sound mind may dispose of property by will in writing, signed by the testator, or by some person in his presence and by his direction, attested and subscribed in his presence by two or more competent witnesses. Every person includes married women. If, after making a will the testator marries, the will is thereby revoked.

SYNOPSIS OF

THE LAWS OF MISSISSIPPI

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by FLOWERS, BROWN, DAVIS & CHAMBERS, Attorneys at Law, Jackson. (See Card in Attorneys' List.)

Accounts. Sworn to entitles plaintiff to judgment, unless defendant files affidavit denying. The affidavit must be by the creditor or his agent. All accounts must be itemized.

Acknowledgments before any judge, clerk of a court of record under his seal, justice of the peace, notary public, or member of the board of supervisors, before any police justice, or mayor of any city, town or village. Acknowledgments in another state may be before any of the judges of the supreme court, 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, 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. 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 where the grantor or witnesses reside, or may be; or before any commissioner 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. Acknowledgment must state that party "acknowledged that he *signed and delivered*" instrument.

Actions. All distinction as to forms abolished. Service five days before return day. All action triable in the circuit court at first term in which the defendant has been personally served with process thirty days before the return day. Mandamus, quo warranto, mechanics' liens, attachments, and replevin triable at return term on five days' notice.

Administration of Estates. Had in chancery court, according to will, if any. Claims against deceased must be registered within one year after the first publication of notice to creditors; registration stops the general statute of limitations. All debts are to be paid before heirs, distributors, or legatees. Claims against insolvent estates are paid pro rata.

Affidavits or Oaths before a judge of any court of record, clerk of such court, master in chancery, member of the board of supervisors, justice of the peace, notary public, mayor, or police justice of a city, town or village; in another state by any officer thereof, or of the United States, authorized to administer oaths.

Aliens. No restrictions on the rights or resident aliens to acquire property or dispose of it. Non-resident aliens can not hold land, but may take liens thereon to secure debts and purchase at foreclosure thereof, and thereafter hold it for not longer than twenty years, with power to sell to a citizen in fee; or he may retain it by becoming a citizen.

Appeals from justice court to circuit court within ten days. From circuit and chancery courts to supreme court within two years. Appeals also in certain cases from board of supervisors and municipal courts.

Arbitration. Parties may submit to arbitration of one or more disinterested arbitrators, with agreement that proper court shall enter judgment.

Arrests made by certain officers, or private persons may arrest for offense committed in his presence. No arrests or imprisonment for debt.

Assignments and Insolvency. No insolvent law. Debtor, though insolvent, may prefer creditors, if in good faith and no benefit, direct or indirect, is reserved. No provision for the discharge of a debtor on his making an assignment. In general assignments, where the value exceeds $1,000, the assignee must give bond and administer the trust in chancery. Preferences not prohibited. Practically superseded by bankrupt law.

Attachment. Against a debtor who is a non-resident or who removes or is about to remove himself or property out of the State; who so absconds or conceals himself that he cannot be served with a summons; 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. In addition to those named above, the following grounds exist: "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 six grounds—or when the creditor 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. Non-resident creditors have the same rights of attachment as resident creditors, whether the debtor be resident or non-resident. Plaintiff must furnish bond double the debt and make affidavit as to one or more grounds. Suit does not abate on verdict for defendant, on a plea denying grounds; but judgment on the debt, to be offset by damages in favor of defendant for wrongfully suing out attachment. Any creditors may intervene and contest ground of attachment.

Attachment in Chancery on bill against the property, or debts of an absent, non-resident, or absconding debtor. A lien is acquired by the suit. If a writ for the seizure of goods is obtained, bond is required.

Banks. Required capital stocks as follows: In cities, villages, and communities with population 1,000 or less $10,000; population 1,000 and not more than 2,500, $15,000; population 2,500 and not more than 6,000, $25,000; population from 6,000 to 10,000, $35,000; 10,000 or more, $50,000. This does not apply to existing banks of (1914.) There shall be a board of bank examiners of three men to be elected, duties to enforce banking laws and examine banks periodically. Deposits guaranteed; depositors names not to be divulged; Banks penalized for failure to comply with orders of examiners; Banks must have at least three directors; unlawful for any banks to receive, deposits for six months in excess of ten times its paid up capital and surplus; Banks officers must not contribute to campaign fund of candidates.

All, except, national banks, are required to make a report, not less than four times each year, to the commissioner. And the commissioner 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 shall be published in full in a newspaper of the town or city where the bank is located. Resources and liabilities shall be stated in such reports. Banks collecting drafts with bill of lading attached must hold funds at least ninety-six hours. Banks must give notice to administrator or executor of deceased persons of deposits of money and papers held for the deceased. Directors of every bank to hold at least three regular meetings each year and keep a complete record of all proceedings. Every bank with paid up capital of as much as $100,000 may do business as trust company; may act as guardian, receiver, etc.; may execute bonds in legal proceedings and generally perform the duties of a trust company; may establish a special mutual loan department; in such department interest on loans not to exceed 8 per cent per annum. Bank not permitted to allow the use of its name by others in making loans.

Chattel Mortgages and Deeds of Trust may be executed and recorded as other mortgages. Foreclosure is usually by trustee's sale. If property be removed to another county, mortgage must be there recorded within twelve months to affect purchasers without notice. Mortgages on property to be acquired are valid, but not on a changing stock of goods if the mortgagor remain in possession and continue business. Reservation of title by the seller of a chattel to secure purchase money is valid without record, even against purchasers without notice..

Collaterals. General law prevails.

Contracts for sale of land, or for lease for more than one year, to be in writing. Same in regard to sale of chattels of the value of more than $50, unless delivery in whole or in part is made. Dealing in futures is forbidden and a ground for attachment. Gambling contracts and ordinary contracts made on Sunday void.

Conveyances. May vest title presently or in future. All estates in land greater than for one year must be by deed, and to affect purchasers without notice must be recorded. Estates tail prohibited, except that a deed or devise may be made to a succession of living donees not exceeding two and to the heirs of the body of the remainderman, or, in default thereof, to the right heirs of the donor in fee. Corporations convey under seal. In all other cases private seals abolished. Conveyances or devises to two or more, or to husband and wife, create tenancy in common. Rule in Shelly's case abolished. Remainder good without particular estate. The words "grant, bargain, and sell" operate as a covenant that grantor is seized of some estate of inheritance. Words "convey and warrant" operate as a general covenant of warranty. The words "convey and warrant specially" operate as a warranty only against the grantor or those claiming under him. A quitclaim deed has practically the same effect. Husband and wife, if living together, must join in conveyance or incumbrance of homestead of either, or it will be void as to all under $3,000

Corporations. Corporations except for the construction and operation of a railroad other than street railroads, and the carrying on of an insurance business, other than mutual insurance, may be created under a general charter.

Application for charter signed by each of the incorporators and acknowledged. It must then be published three consecutive weeks in a newspaper published at the domicile of the proposed corporation. The application, with proof of publication, must be forwarded to the secretary of state together with the fee for recording. The same to the attorney general for his opinion as to the constitutionality and legality of the proposed corporation, after which it is referred to the governor for his approval or disapproval. The governor then returns it to the secretary of state with his action endorsed thereon. If he approve it, the secretary of state shall record it in his office and certify to the same records, and transmits it to the applicants. It must be recorded in the office of the clerk of the chancery court of the county in which the corporation shall do business. Within thirty days after the organization, the corporation must make report of the organization to the secretary of state. If such report be not made the charter granted shall be void, and all persons doing business thereon shall be deemed partners in the business, and liable as such.

Corporations thus created possess the powers usual and incident to private corporations generally, but existence is restricted to fifty years. Corporations created as above named may hold property necessary for their purposes, not exceeding one million dollars, manufacturing companies and banks excepted, which may hold property to the amount not exceeding two million dollars.

Under the laws passed by the Legislature of 1913 all corporations, whether domestic or foreign, are not allowed to acquire title in fee, or for a term of years, to, or own land for agricultural purposes, in this State outside of an incorporated city, town, or village. A corporation may be lessor or lessee for not more than twenty years of as much as 10,000 acres of land to be used for agricultural purposes, but any such lease or contract shall not be renewed or extended so as to authorize the holdings of said lands for another period.

This law does not prevent corporations from taking deeds of trust, or mortgages on real estate to secure loans or debts, or from acquiring title thereto upon foreclosure of such securities or from acquiring title to land by deed for the collection of debts, and that all lands so acquired may be used and operated after foreclosure for all agricultural purposes during the time so held for not longer than twenty years.

It is also the duty of every corporation that shall acquire interest in or title to land in this State to file the deed to same in the office of the Chancery Clerk of the county in which such land, or a part of it, is located within sixty days after the date of the deed.

If any corporation or other person shall have acquired any right, title or interest in any land in violation of this Act, they shall be dissolved by a suit brought by the Attorney General of the State or by the District Attorney, if it is a domestic corporation, and if a non-resident corporation they shall not be permitted to do business in this State, and the court shall thereafter appoint a receiver to take charge of all property in this State belonging to such corporation or so held in trust and to dispose of the same under order of the court, and after paying all debts of the corporation and all costs and charges incident to said suit, the remainder shall be paid and distributed to the stockholders.

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This Act does not affect the rights of existing corporations in this State, but is passed to prevent a monopoly in agricultural lands.

Corporations may take a lien on property real, or personal, to a greater amount than they may hold as a security for a debt, if same shall be held for a longer period than ten years. Stockholders individually liable for the debts the corporation contracted during his ownership of stock for the balance that may remain unpaid for stock subscribed for and may be sued by any creditor. Directors are liable for the wilful mismanagement or for allowing capital withdrawn while debts exist. Corporations under the laws of other states or of foreign countries may sue in this State, and have the same rights in the State as non-resident individuals. The legislature may repeal or amend charters granted after November 1, 1890, provided rights of stockholders are not infringed.

Costs. Non-resident or insolvent plaintiff required to give security.

Courts. Terms and Jurisdiction. Justices' courts meet twice each month; circuit and chancery courts in each county twice a year; supreme court twice a year, in October and March. Justices' courts have jurisdiction up to $200. Circuit courts have general jurisdiction of all common law actions where the amount or value exceeds $200, and jurisdiction of appeals from justices' and mayors' courts, and boards of supervisors. Chancery courts have jurisdiction of the administration of estates of deceased persons, of minors' business and other probate matters, and of all matters in equity. Appeals may be taken to the supreme court from any final judgment of the circuit court, and from the chancery court, except in suits for not more than $50 originating in the justice's court. Suits of equitable cognizance improperly brought in the circuit court are transferred to chancery court, and vice versa. No suit dismissed because being of an equitable nature it is improperly brought in the circuit court and e converso.

Creditors' Bills may be filed under general to subject equitable assets and in aid of execution at law. Such bills may, under the statute, be filed to subject property of a debtor fraudulently conveyed without a judgment and return of nulla bona; and this whether complainant's debt is due or not. No bond is required unless a sequestration is desired.

Curtesy and Dower. Both abolished since 1880.

Days of Grace. Inland and foreign bills of exchange and promissory notes for a sum certain payable only in money are entitled to three days of grace; other contracts are not. (See also Notes and Bills.)

Deeds. (See Conveyances.)

Depositions in civil cases, on written or verbal interrogatories; ten days' notice to opposite party. If such party is absent and has no attorney, filing interrogatories ten days sufficient. 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 of, and shall be subscribed by the witness. Depositions then certified, and transmitted by mail or other safe and convenient manner to the court where the same are to be used. Officer's certificate prima facie evidence of his character.

Descent and Distribution. Estates of inheritance, real and personal descend. 1 To children and their descendants per stirpes. 2. To brothers and sisters and father and mother in equal parts and their descendants by representation. 3. To the next of kin according to the civil law. Except among brothers and sisters there is no representation among collaterals. Advancements must be brought into hotchpot. No distinction between children of the whole blood and those of the half blood, except that children of the whole blood are preferred to those of the half blood in equal degree. Where there is no one to inherit property escheats. Illegitimates inherit from the mother and from her other children and her kindred. Children of illegitimates and their descendants inherit from brothers and sisters of their father or mother and from grand parents. But children of illegitimates do not inherit from any ancestor or collateral kindred if there be legitimate heirs of such ancestor or collateral kindred, in the same degree. Exempt property of husband or wife descends to survivor and children as tenants in common.

Dower and Curtesy have been abolished since 1880.

Evidence. In the main common law rules apply. Parties and interested persons competent; except against decedent. Affidavit to open account entitles to judgment, unless defendant denies under oath. Warehouse receipts and bills of lading conclusive evidence in favor of a bona fide holder that the property was received by the issuer. (See also Accounts and Affidavits.)

Executions in circuit court issue within twenty days after the adjournment of court unless otherwise ordered by the plaintiff, and in justices courts after the lapse of ten 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 property sold under execution or mortgage.

Exemptions. The following personal property is exempt from seizure under execution or attachment, to-wit:

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, including pictures, drawings, and paintings, not exceeding five hundred dollars in value; also the instruments of surgeons and dentists, used in their profession, not exceeding two hundred and fifty dollars 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:

Two work-horses or mules, and one yoke of oxen.

Two head of cows and calves.

Ten head of hogs.

Twenty head of sheep and goats each.

All poultry.

All colts under three years old raised in this State by the debtor.

Two hundred and fifty bushels of corn.

Ten bushels of wheat or rice.

Five hundred pounds of pork, bacon, or other meat.

One hundred bushels of cotton seed.

One wagon, and one buggy or cart, and one set of harness for each.

Five hundred bundles of fodder and one thousand pounds of hay.

Forty gallons of sorghum or molasses or cane syrup.

One thousand stalks of sugar cane.

One molasses mill and equipments, not exceeding one hundred and fifty dollars in value.

Two bridles and one saddle, and one side saddle.

One sewing machine.

Household and kitchen furniture not exceeding in value two hundred dollars.

All family portraits.

One mower and rake for cutting and gathering hay or grain.

And the following property shall be exempt from garnishment or other legal process, to wit:

The wages of every laborer or person working for wages, being the head of a family, to the amount of fifty dollars per month; but this paragraph shall not apply to a debt for board and lodging or a judgment founded on a debt for board and lodging.

The proceeds of insurance on property, real and personal, exempt from execution or attachment, and the proceeds of the sale of such property.

Payable to Executor. Life insurance policy not exceeding five thousand dollars, payable to the executor, or administrator, shall inure to the heirs or legatees, freed from all liability for the debts of the decedent, except premiums paid on the policy by anyone other than the insured and debts due for expenses of last illness and for burial; 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 three thousand dollars, and the excess of the latter only shall be exempt. Life insurance policy to amount not exceeding $10,000.00 goes to parties named as beneficiaries free from liability for debts of insured.

Homestead in Country. Every citizen being a householder, and having a family, shall be entitled to hold exempt the land and buildings owned and occupied as a residence, but the quantity shall not exceed one hundred and sixty acres, nor the value thereof, inclusive of improvements, save as hereinafter provided, the sum of three thousand dollars.

Homestead in Cities. Every citizen being a householder, and having a family residing in any city, town, or village, shall be entitled to hold, the land and buildings owned and occupied as a residence by such person, not to exceed in value, save as hereinafter provided, three thousand dollars, and personal property, to be selected by him, not to exceed in value two hundred and fifty dollars, or the articles specified as exempt to the head of a family.

Homestead exemption may be increased to $3,000 in value by filing for record in chancery clerk's office a declaration claiming as exempt certain property.

No property is exempt as against purchase money or for labor performed on it or material furnished therefor. Money loaned at rates of interest not exceeding 6 per cent is exempt from taxation.

Foreign Corporations may do business and sue and be sued as in case of domestic corporations. (See Corporations.)

Sales of merchandise otherwise than in usual course of business and sales of entire stock of goods in gross presumed fraudulent and void as to creditors, unless 5 days before sale, seller make complete inventory and the purchaser made demand of seller for name, address and amount of claim of each creditor, and the purchaser notified personally or by mail each of creditors of prased sale and of cost price of merchandise and the price to be paid therefor.

In case of destruction of stock of merchandise by fire, on which there is insurance, holder of policies to notify creditors he owes for merchandise of his loss and amount of insurance carried, within 5 days.

Fraud and Fraudulent Conveyances. (See Attachment, Bills of Lading, Limitations, Creditor's Bill.)

Garnishment on judgments or in attachment. Binds debts or property of debtor in garnishee's hands.

Grace. (See Days of Grace, Notes and Bills.)

Holidays are Jan. 1, Feb. 22, April 26, June 3, July 4, first Monday in September, fourth Thursday in November, and December 25.

Homestead owned and occupied by husband living with wife cannot be sold or encumbered unless the wife joins in the conveyance. The same is true as to husband if wife owns homestead. (See Exemptions.)

Husband and Wife. The disabilities of coverture are abolished, as are dower and curtesy. Husband and wife may contract with and sue each other, but contracts for compensation for services rendered to each other are void. If husband rents wife's land, mules, etc., and does business in his own name, it will be deemed the business of the wife as to those without notice, unless the contract be recorded. Transfers between are void as to third persons unless recorded. (See also Married Women, Wills, and Homestead.)

Insolvency. No general insolvent laws, but insolvent estates of decedents are divided among creditors pro rata.

In case of insolvency partnership property is applied first to partnership debts, and e converso.

Interest. Legal rate 6 per cent per annum, and is exempt from any taxes, but parties may contract in writing for 8 per cent, when more is stipulated or collected all interest is forfeited.

Judgments enrolled become liens on defendant's property within the county. A junior judgment creditor may obtain priority as to property levied on by him, if, after ten days' notice, the senior judgment creditors fail to issue executions and point out the property. Lien of judgment continues seven years.

Jurisdiction. (See Courts.)

Liens. Lien of an enrolled judgment, of mechanics and material men, of landlord and laborer on agricultural products, innkeeper's and stablekeeper's lien. The seller of goods may enforce lien for the price of the same, provided the goods are still in the hands of the purchaser or one having notice. The procedure is by affidavit, filed at the commencement suit, stating that the purchase money is unpaid. A writ of seizure issues, and the goods are taken. Title to personal property may be reserved by the seller as security for the price, and this is good even as against a subsequent bona fide purchaser, without any writing or record.

Limitations. Open accounts, accounts stated, and verbal contracts, express or implied, three years; all other contracts, six years; 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. Actions to recover property sold under order of chancery court must be brought within two years, where possession is taken and purchase money paid in good faith. When the legal title to property or right in action is in an executor, guardian, or other trustee, beneficiary, though under disability, is barred when trustee is barred. Action against administrator or executor on claim against person deceased limited to 4 years from date of qualification of such administrator or executor. Statute does not apply to suits on notes or evidences of debt of banks or other moneyed corporations. An acknowledgment or new promise must be in writing. Statute does not run during fraudulent concealment, nor against infant or person non compos mentis, nor against a convict in actions for assault, etc., until after release, nor against State, county, municipality, or any political subdivision of State.

Married Women retain their estate, common law disabilities of coverture abrogated; have capacity to make contracts and do all acts in reference to property Dower and curtesy abolished. Husband and wife must join in conveying or encumbering homestead. (See also Husband and Wife and Descent.)

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; with power of sale are foreclosed by sale in pais; without power of sale, by suit in chancery court, and after foreclosure there is no redemption. (See Chattel Mortgages.)

Notaries. Have power to administer oaths, take acknowledgments and to protest notes and bills. (See Conveyances, and Notes and Bills.)

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Notes and Bills must be protested and notice given substantially as at common law, to bind parties entitled to notice. Promissory notes, unless indorsed, are not required to be protested; 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; defendant can make all defenses which he had against payee before notice of assignment; but this does not apply to paper payable to bearer, or payable in another state or country where a different rule obtains. Foreign bills protested for non-acceptance or non-payment, draw 10 per cent damages; bills drawn payable in the United States, protested for non-acceptance, draw damages 5 per cent. Checks, drafts and notes payable on demand, are not entitled to any days of grace; while notes, bills and drafts, are entitled to three days of grace. Where a bank check is expressly made payable on a future day, or where, by the way it is drawn, it takes the character of a draft or bill of exchange, it is entitled to days of grace. Domestic bills drawn on and payable in this State for $20 or upward 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 or note would be by its terms presentable for acceptance or payment, according to its terms shall fall on Sunday, or legal holidays shall be presented on the day before.

Partnership. Few statutory provisions. Governed by general law. In case of insolvency, partnership property must go to pay firm debts, and e converso. Provision made for limited or special partnerships.

Powers of Attorney. May be acknowledged or proved and recorded as deeds. May be revoked in like manner. Conveyances of land or other property under powers of attorney are valid.

Redemption. No redemption from sales under mortgage, execution, or other judicial sale. Two years allowed for redemption of land sold for taxes, saving to minors and persons non compos mentis a like period after removal of disability.

Replevin lies to recover personal property wrongfully withheld from the owner. The property may be restored to defendant on bond. If he declines to bond, plaintiff may do so. If neither does, a claimant of the property may give the bond and receive possession. Damages may be assessed for wrongful taking or detention.

Taxes. Personal property is assessed once a year; real estate every two years, and taxes constitute a prior lien. Land delinquent sold on first Monday of April. Redemption within two years, on payment of all taxes, costs, 25 per cent damages, and 5 per cent on amount paid. 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.

Trust Companies. Provision for such companies with general powers—to administer all trusts, make bonds and the like. (See Banks.)

Warehouse Receipts. (See Bills of Lading.)

Wills executed by anyone twenty-one years old, of sound mind. As to land, if not wholly written and subscribed by testator, 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. Nun-cupative wills not to be established where value bequeathed exceeds $100.00. Soldiers and sailors in actual service may bequeath personalty free from statutory restrictions. No restriction upon the power to dispose of property by will except that religious or charitable trusts or bequests void. Provisions made for renouncing will by surviving husband or wife in certain cases. Probated in common form may be contested within two years. One who kills another cannot take under his will.

SYNOPSIS OF

THE LAWS OF MISSOURI

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by Messrs. GAGE, LADD & SMALL, Attorneys at Law, Kansas City. (See Card in Attorneys' List.)

Acknowledgments. Acknowledgments of instruments affecting real estate may be before one of the following courts or officers. 1. Within this State, some court having a seal, or some judge, justice or clerk thereof, a notary public, or some justice of the peace of the county in which the real estate is situated. 2. Outside of this State and within the United States, any notary public, any court having a seal or the clerk of such court, or commissioner of deeds. 3. Without the United States, any court having a seal, the mayor or chief officer of any city or town having an official seal, any minister, consul or officer of the United States, or notary public having a seal. The official should certify that "before me personally appeared..... and ....., his wife, to me known to be the persons described in, and who executed the foregoing instrument and acknowledged that they executed the same as their free act and deed."

Actions. There is in this State but one form of civil action the practice being under a code. A non-resident plaintiff must file the written undertaking of some resident for costs.

Administration of Estates. The probate court in each county has jurisdiction of the settlement of the estates of deceased persons. Claims presented to the court for allowance within six months after the grant of letters are preferred over those presented later. Claims not presented within one year from the granting of letters are barred. Letters are granted: 1. To the husband or wife. 2. To those entitled to distribution, or one or more of them. If after the expiration of thirty days after death of deceased, such persons do not, on five days' notice, appear and qualify, letters may be granted to any other person. Non-residents cannot be executors or administrators, nor may non-resident executors or administrators maintain an action in this State.

Aliens. Aliens or alien corporations may not acquire, hold or own real estate except such as may be acquired by inheritance or in the ordinary course of justice in the collection of debts. Real estate acquired by an alien creditor at foreclosure sale must be disposed of within five years.

Arbitration. Parties to a controversy may submit the same to arbitrators, and their award be confirmed by a court and judgment rendered thereon.

Arrest. No person can be arrested under civil process.

Assignments. Voluntary assignments must be for the equal benefit of all the creditors of the assignor and are administered in the circuit court. No such assignment operates as a discharge of the assignor from his debts.

Attachments. The writ may issue when the debtor is a non-resident; or conceals himself so that the ordinary process of law cannot be served; or, has absconded or absented himself from his usual place of abode in this State, so that process cannot be served; or, is about to remove his property out of the State with intent to defraud, hinder, or delay his creditors; or, is about to remove out of the State and change his domicile; or, has fraudulently conveyed, concealed, or removed his property, or is about to do so, to hinder or delay his creditors; or, has failed to pay the price of any article which he was bound to pay for upon its delivery, or has fraudulently contracted the debt; or, where the cause of action accrued out of this State and the defendant has absconded or secretly removed his property into this State; or, where the damages sued for arise from the commission of a felony or misdemeanor or the seduction of a female; or, the defendant is a corporation whose chief office or place of business is out of this State. The plaintiff, his agent, or attorney must make affidavit to one or more of these grounds, and the plaintiff, except where the defendant is a non-resident, must give bond for double the amount of the debt.

Banks are organized under a general law. The cash capital must not be less than $10,000 nor more than $5,000,000, and in cities of 150,000 or more, not less than $100,000. The entire capital must be subscribed, one-half thereof paid up on organization, and the other half within one year. Directors must be residents of this State. The receipt of deposits with knowledge of the fact that the bank is in failing circumstances, is punishable by fine or imprisonment, and officers and agents consenting to the creation of debts with such knowledge, are individually responsible therefor. Not more than 25 per cent of its capital stock must be loaned to any individual or corporation. Large powers of supervision and control are vested in the bank commissioner. Private bankers must have a paid-up capital of not less than $10,000. and in cities of 150,000 population or more, not less than $100,000.

Every firm or individual as well as every corporation that engages in the business of banking shall be subject to the strict supervision of the State Banking Department.

Conditional Sales of personal property, unless recorded, are void as to subsequent purchasers in good faith and creditors.

Conveyances. A person may convey title to lands although not in possession, and although the same be in adverse possession. The signature of the grantor in a deed need not be attested by a subscribing witness. A deed by a natural person need not be under his seal. The corporate seal must be affixed to deeds of corporations. The use of the word "heirs" in a deed is not necessary to create a fee simple. The statute abolishes estates tail and converts an estate tail into a life estate for the first taker with remainder in fee simple to the heirs of his body. The words "grant, bargain and sell" are employed in the granting clause of a warranty deed; by statute those words constitute express covenants that the grantor was seized of an indefeasible estate in fee simple; that the real estate was free from all incumbrances done or suffered by him or any person under whom he claims; and for further assurances of the title to be made by him and his heirs. Title, subsequently acquired by the grantor in a warranty deed, will immediately pass to the grantee without further conveyance. An estate of freehold may be made to commence in future, by deed. An interest in real estate, granted or devised to two or more persons, other than executors or trustees, or husband and wife, is a tenancy in common unless expressly declared to be a joint tenancy. A conveyance to husband and wife creates an estate in entirety, as at common law. Females of eighteen years are considered of full age for the purpose of conveying real estate.

Corporations are formed under general law. In the case of manufacturing and most other business corporations, the capital must be not less than $2,000 nor more than $500,000,000. One-half must be subscribed and actually paid up in money or property of the full value thereof, if part of the capital stock is paid in property, there must be an itemized description, the actual cash value of each item being shown. Part of the stock may be preferred, paying not to exceed 6 per cent annual dividends. Cumulative voting is permitted. Directors must not be less than three nor more than twenty-one; three of them must be citizens and residents of the State. A stockholder having paid for his stock in full is subject to no further liability. The capital may be increased or diminished by a vote of the stockholders. Bonded indebtedness cannot exceed the authorized capital stock and cannot be increased of two-thirds in value of the stock may apply to the circuit court for a decree for the winding up of the business. The General Assembly of 1913 enacted what is popularly known as a "blue sky law," placing under strict supervision of the Bank Commissioner, corporations and partnerships carrying on the business of selling and negotiating stocks, bonds and securities (a few securities excepted).

Ample powers of visitation and summary action are conferred upon the Bank Commissioner, and penalties of fine and imprisonment imposed for violation of the law.

A foreign corporation must file in the office of the secretary of state a copy of its charter with a statement of the proportion of its capital stock invested in Missouri and pay certain fees. It then receives a license to do business in the State. It must also maintain an office in the State. Its personal property in this State may not be incumbered to the injury of any creditor who is a citizen of this State, and no mortgage by a foreign corporation except a railroad or telegraph company, to secure a debt created in another State is effective as against any citizen of this State until its debts, due to resident citizens at the time of recording the mortgage, have been paid. A corporation failing to comply with these provisions is subject to a fine and cannot maintain a suit in a court of this State. A corporation of any country outside of the United States before being authorized to transact business in this State must have a public office in the State, where books shall be kept, showing in detail its assets and liabilities, the names and residences of its shareholders, officers, directors, and managers. None of these requirements apply to insurance companies.

Courts. Circuit courts have original jurisdiction in all cases of law and equity and hold two or more terms in each year in each county. Jurisdiction of the settlement of estates of deceased persons is vested in a probate court in each county. Justices of the peace have jurisdiction limited to $250; in townships having 200,000 and less than 400,000 inhabitants the jurisdiction is $500. Appeals lie from judgments of justices and the probate court to the circuit court.

Days of Grace are abolished. (See Negotiable Instruments.)

Depositions. May be taken on notice of at least three days and one day additional for every fifty miles of the first 300 and beyond that one additional day for each 100 miles from the place of serving the notice. If taken outside of the State a commission issues from the court in which the suit is pending. They may be taken within the State by any judge, justice of the peace, notary public, clerk of a court, mayor or chief officer of a city or town having a seal of office; and if out of the State by any officer appointed by authority of the laws of this

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State to take depositions, a consul or commercial representative of the United States having a seal, or mayor of any city or town having a seal, or any judge, justice of the peace, or other judicial officer, or a notary public. They may be taken upon written interrogatories, but this is not customary. The names of the witnesses or of the officer need not be mentioned in the notice. Objections to the competency or relevancy of the testimony need not be noted, but can be first made when it is offered at the trial.

Descent and Distribution of Property. The real and personal estate of an intestate descends and is distributed as follows: 1. To his children or their descendents in equal parts. 2. If there be no children or their descendants, then to his father, mother, brothers, and sisters, and their descendants in equal parts. 3. If there be no children or their descendants, father, mother, brother or sister, nor their descendants, then to the husband or wife; if there be no husband or wife, then to the grandfather, grandmother, uncles and aunts, and their descendants in equal parts. 4. If there be no children or their descendants, father, mother, brother, sister, or their descendants, husband or wife, grandfather, grandmother, uncles, aunts, or their descendants, then to the great-grandfathers, great-grandmothers, and their descendants, in equal parts, and so on, in other cases without end passing to the nearest lineal ancestors and their children, and their descendants in equal parts. Posthumous children inherit. When there are collaterals of the half blood, they inherit half as much as those of the whole blood. Lineal descendants in equal degree take per capital; but where part of them are dead and part living, the issue of those dead take per stirpes. When a wife shall die without any child or other descendants in being, capable of inheriting, her widower shall be entitled to one-half the real and personal estate belonging to the wife at the time of her death, absolutely, subject to the payment of the wife's debts, and the widow takes a like share of the estate of her husband on his death without lineal descendants. An illegitimate child inherits from its mother, and vice versa. An illegitimate child becomes legitimate if the parents intermarry.

Dower. Dower in real estate is as at common law, but the widow has the right, at her election, to choose certain portions of her husband's estate asolutely, in lieu of dower. A widow may renounce provisions in a will in lieu of dower and elect to take absolutely certain portions of the estate. No conveyance by the husband or sale under judgment or decree will bar dower. The estate by the curtesy exists as at common law.

Executions. Unless motion for new trial is filed within four days after judgment, execution issues immediately. Real estate must be sold during a session of the court which rendered the judgment. Sales of real estate must be advertised for twenty days; of personal property for ten days. Execution sales are for cash. No execution is a lien upon personal property until actual seizure thereof. It may issue at any time within ten years from the rendition of the judgment. Deeds to the purchaser are made at once by the sheriff, no confirmation of sale being required.

Exemptions. The homestead of the head of a family is exempt, in the country to the extent of 160 acres not exceeding in value $1,500, in cities of 40,000, eighteen square rods, not exceeding in value $3,000; in cities of 10,000, thirty square rods, not exceeding in value $1,500: in towns of less than 10,000, ten acres, not exceeding in value $1,500. The exemption continues to the widow and to the children until their majority. There are also exempt, when owned by the head of a family, ten hogs, ten sheep, two cows, and certain farm implements; two work animals spinning wheel, loom, and small quantity of hemp, flax, and wool; wearing apparel; $100 in household and kitchen furniture; mechanic's tools; provisions on hand for family use; Bibles and other books used in the family. Lawyers, physicians, ministers, and teachers have the right to select professional books in lieu of other property allowed to them and doctors may select medicines. In lieu of certain of the exempted articles any other property, not exceeding $300 in value, may be selected.

Frauds and Perjuries. No executor or administrator is bound by his promise to pay any debt or damages out of his own estate, and no person is liable upon any agreement to answer for the debt, default, or miscarriage of another, or made in consideration of marriage, or for the sale of lands or any interest in or lease thereof for a longer time than one year, or on any agreement that is not to be performed within one year unless the agreement sued on, or a memorandum thereof, is in writing signed by the party to be charged or his authorized agent; and no contract for the sale of lands by an agent is valid unless the authority of the agent is in writing. Every gift, conveyance, or assignment of or charge upon real or personal property made with intent to hinder, delay, or defraud creditors or defraud or deceive persons who shall purchase the same lands, is void against creditors and purchasers, prior and subsequent. The disposition of the larger part or the whole of a stock of merchandise pertaining to vendor's business otherwise than in the ordinary course of trade, is fraudulent and void as against creditors of the vendor, unless the vendee shall, at least seven days before the sale furnish to the creditors a statement of the consideration for the sale, the amount of the indebtedness of the vendor, and the names of his creditors. All creations of trust in lands must be in writing except those resulting by implication of law.

Garnishment. Garnishees may be summoned under writs of attachment or execution. A garnishee may discharge himself by delivering up the property or paying the debt to the officer under order of court. Credits or property attached in the hands of a garnishee may be claimed by a third person, who may assert his title by interpleader. Not more than 10 per cent of the wages due for the last thirty days' service of the head of a family and resident of this State can be garnished. Public corporations and their officers are exempt from garnishment, as are also administrators and executors prior to an order of distribution.

Holidays. January 1, February 22, May 30, July 4, the first Monday of September, any general primary election day, any general state election day, any thanksgiving day appointed by the President or Governor, and December 25 are public holidays; and when any of them fall on Sunday, the next day is such holiday. February 12, known as "Lincoln Day" and October 12, known as "Columbus Day" are also holidays, but are not such as respects commercial paper.

Husband and Wife. (See Married Women.)

Interest. Legal rate 6 per cent, but by agreement in writing any rate not exceeding 8 per cent. The legal rate is collectible on moneys after they become due: on written contracts or accounts, after due and demand made; on money recovered for the use of another and retained without the owner's knowledge. If usurious interest has been paid that part in excess of the legal rate is deemed payment and credited on the debt, the holder of which recovers the debt only with legal interest after deducting such payments, and costs are adjudged against him. The receipt or exaction of usurious interest upon a debt secured by lien upon personal property renders the lien invalid. Parties may contract that interest may be compounded, but not oftener than once in a year.

Judgments. Judgments and decrees rendered by a court of record are liens on the real estate of the person against whom they are rendered situate in the county for which the court is held. Transcript of a judgment filed in the office of the clerk of the circuit court of any other county becomes a lien upon real estate in such county. The lien of a judgment continues for three years, and may be revived at any time within ten years from its rendition. Execution may issue at any time within ten years from the rendition of a judgment. When two or more judgments are rendered at the same term as between parties entitled to the judgments, the liens commence on the last day of the term at which they are rendered. Judgments bear interest at 6 per cent, but if upon contracts bearing more than 6 per cent, the judgment bears the rate of the contract.

Liens. Statutory provisions exist for mechanics' liens, liens of keeping horses and other animals, liens of inn and boarding-house keepers, liens of contractors, material-men, and laborers against railroads.

Limitations. Actions must be commenced within ten years: 1. Upon any writing for the payment of money or property. 2. On any covenants of warranty or seizin contained in any deed. 3. For recovery of lands. 4. For relief not otherwise provided for. Within five years: 1. Upon contracts, express or implied, except judgments or decrees of court. 2. Upon a statutory liability other than a penalty or forfeiture. 3. Trespass. 4. Replevin, and for any other injury to the person or rights of another not arising on contract and not otherwise enumerated 5 For relief on the ground of fraud. Within three years: 1. Against public officers for acts of official commission or omission. 2. For a penalty or forfeiture where the action is given to a party or a party and the State. Within two years: Actions for libel, slander, assault, battery, false imprisonment, or criminal conversation. Statute does not begin to run against a resident of this State who is absent at the time it accrues, until his return; if he depart after it accrues, the period of his absence is not counted. Acknowledgments or promises, to take a case from the operation of the statute, must be in writing. Judgments are presumed to be paid after ten years. A cause of action barred by the laws of the State in which it originated is barred in this State.

Limited Partnership. May consist of one or more general and one or more special partners. Special partners contributing a specified amount in cash to the capital are not personally liable for the debts of the partnership and have no power to transact its business. A verified statement of the terms of the partnership must be filed with the recorder of the county. There can be no limited partnership for the business of insurance or banking.

Married Women. A married woman is deemed a femme sole so far as to enable her to carry on or transact business on her own account, to contract and be contracted with, to sue and be sued, to enforce or have enforced against her property such judgments as may be rendered for or against her, and may sue or be sued at law or in equity, with or without her husband being joined as a party. Her real estate and personal property cannot be taken by any process of law for the debts of her husband. Neither the rents, issues, or products of her real estate, nor the interest of her husband in her right in any real estate, can be levied on for his debts.

Mortgages. Mortgages on real estate are executed like deeds. Husband and wife must join to bar dower or homestead, except to secure purchase money. The common form of real estate security is a deed of trust with power of sale in the trustee upon default in the payment of the debt. Sale is at public auction, upon twenty or more days' public notice, as may be provided in the instrument. The trustee executes deed to the purchaser. There is no redemption from sale unless the holder of the debt is the purchaser, in which case the debtor may redeem in one year if, at the sale, he give security for the payment of interest to accrue. Evidences of debt secured by mortgage or deed of trust must be produced to the recorder when satisfaction is entered. No foreign corporation or individual may act as trustee in any deed of trust unless there be named as co-trustee a Missouri corporation or individual citizen of this State, and the resident trustee must be a party plaintiff in an action to foreclose.

Chattel mortgages are invalid except as between the parties unless possession of the property be taken and retained by the mortgagee or the mortgage be acknowledged and recorded in the county of the mortgagor in the same manner as conveyances of real estate, or unless the mortgage or a copy thereof be filed in the office of the recorder of the county of the mortgagor, or, where he is a non-resident of the State, then in the office of the recorder of the county in which the property is situated. Every such mortgage ceases to be valid after the expiration of five years from the filing of the same.

Negotiable Instruments. The General Assembly of this State has codified the law of negotiable instruments by the passage of "An act relating to the negotiable instruments, to revise and codify the law concerning the same, and to establish a law uniform with that of other states on the subject." The act is the same as that adopted by many other states in accordance with the recommendation of the American Bar Association. It became effective in Missouri June 16, 1905.

Power of Attorney. An instrument of writing containing a power to do any act or business, including the conveyance of real estate, as agent or attorney for another, when acknowledged in the same form as required for deeds, may be read in evidence without further proof of its execution.

Probate Law. (See Administration of Estates.)

Protest. (See Negotiable Instruments.)

Replevin. Goods or chattels wrongfully taken or retained may be replevied by the owner or party entitled to possession. Affidavit must be filed and bond in double the value of the property given. In certain cases defendant may retain possession of the property by giving a bond in double its value. If plaintiff fail in his suit, defendant recovers judgment against plaintiff and the sureties on the bond for the value of the property and damages.

Taxes. State and county taxes are usually paid in November or December. If not paid, they are regarded as delinquent from the first day of the succeeding January. State and county taxes for each year are a lien upon the real estate from the first day of June of the preceding year. Delinquent state and county taxes are collected by suit. Municipal taxes are payable according to the provisions of the charters or general laws by which they may be governed. In some cases the payment of delinquent city taxes may be enforced by a sale of the property without suit; in others, suit must be brought before sale can be made. There is no redemption from a sale under a judgment for state and county taxes. Redemption is usually allowed in a sale for city taxes under the provisions of the particular charter.

Wages. (See Garnishments; Exemptions.)

Wills. Every male person twenty-one years of age may, by his last will, devise all of his estate, real, personal, and mixed, and every male over the age of eighteen years may bequeath his personal estate. Women of eighteen years of age and upward, married or unmarried, may devise their real estate and bequeath their personal property. A will must be in writing, signed by the testator or some person by his direction in his presence, and must be attested by two or more competent witnesses subscribing their names to the will in the presence of the testator. If after making the will the testator shall marry and die leaving issue of the marriage living at the time of his death, or born to him after his death, the will shall be deemed revoked. The will of an unmarried woman is revoked by her subsequent marriage. If a child or children, or the descendants of such child or children, in case of their death, are not named or provided for in the will, the testator is

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deemed to have died intestate as to such child or children or their descendants. Wills must be presented for probate to the probate court of the county in which was the place of abode of the testator. Wills may be contested within two years after the probate thereof by petition to the circuit court of the county. Real estate in this State may be devised by last will executed and proved according to the laws of this State. Personal estate may be bequeathed according to the laws of the state or country in which the will shall be made.

SYNOPSIS OF

THE LAWS OF MONTANA

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by WIGHT and PEW.
Attorney at Law, Helena.

Abstracters. Must give $5,000.00 bond to state and shall receive certificate from State Treasurer authorizing him to do business. Abstract furnished by authorized abstracter admitted in court has prima facie evidence of contents.

Acknowledgments of instruments may be taken in this State. 1. Before supreme court justice, district judge, justice of the peace, clerk of any court of record, county clerk, notary public, or U. S. Commissioner. 2. Outside Montana in the United States. Before the justice, judge or clerk of any court of record of the United States or any state or territory; a commissioner appointed by the governor for that purpose, a notary public, or any other officer authorized to take acknowledgments. 3. Outside United States before minister, commissioner or chargé d'affaires, consul, vice-consul or consular agent of the United States, a judge of court of record, commissioner appointed by governor or notary public. In all cases acknowledgment must be taken within jurisdiction of officer taking.

Must be in substantially following form: "State of .....,
county of .....s. s. (On this ..... day of ..... 190.., before (name and quality of officer) personally appeared ..... known to me (or proved on oath of ..... to be the *person whose name is subscribed to the within instrument, and acknowledged to me that he (or they) executed the same." Same for married women. In case of corporation same to star, then "president or vice president (or secretary or assistant secretary) of the corporation that executed the within instrument and acknowledged to me that such corporation executed the same," and in case of attorney in fact, "whose name is subscribed to the within instrument as attorney in fact of....., and acknowledged to me that he subscribed the name of..... thereto as principal, and his own name as attorney-in-fact." Outside of county must be accompanied by certificate of county clerk.

Administration of Estate is had in district courts. Notice to creditors published four weeks. Claims not presented in four months after first notice, if estate $10,000 or less, or ten months if over $10,000, are barred.

Letters of administration granted to: 1. Surviving husband or wife or competent appointee. 2. Child. 3. Father or mother. 4. Brother. 5. Sister. 6. Grandchild. 7. Next of kin who inherits. 8. Public administrator. 9. Creditor. 10. Any person legally competent. When several claim right and equally entitled, court appoints, preferring males to females and whole blood to half blood.

Affidavits may be taken or oaths administered before any judicial officer, clerk of any court, county clerk or notary public in this State; in any other state before a commissioner appointed by the governor, notary public, or judge or clerk of any court of record having a seal; in a foreign country before an ambassador, minister, consul, vice-consul, or consular agent of the United States, or judge of a court of record having a seal.

When taken before a judge in any other state or foreign country, the existence of the court, signature and official character of the judge must be certified by the clerk of such court, under its seal.

Aliens and Denizens have same right as citizens to acquire, use and dispose of mining property and real estate in connection therewith.

Arbitration. Any controversy except over title to real property may be submitted to arbitration by a written agreement to that effect filed in court and may be made an order of court. When made an order of court is irrevocable; otherwise it is revocable at any time before award. An agreement to arbitrate cannot be specifically enforced.

Arrest. Defendant in a civil action may be arrested when about to leave the State or conceal his property, with intent to defraud creditors, and in certain other action where fraud, wilful injury, or wilful violation of duty, or wrongful conversion of money or property by a public officer or a fiduciary, or for fine or penalty.

Assignments. Voluntary assignments for benefit of creditors allowed if without conditional preference, not co-erceive, impartial, without reservation for fraudulent benefit of assignor, and does not confer power upon assignee to delay execution of the trust, nor exempt him from liability for negligence or misconduct. Is under partial supervision of the district court.

Attachments. Writ of may be had at the time of issuing summons or any time thereafter in actions upon unsecured contracts express or implied for direct payment of money; or if contracts originally secured, when security has become worthless without plaintiff's fault. Is issued upon affidavit on behalf of plaintiff, after filing bond in double amount of claim, if under $1,000; if over, in amount of claim; bond never to exceed $10,000. Any property, real or personal, or debt due from or money or personal property held by third person, including judgments, may be attached.

Banks. No special provisions regarding national banks except that all banks, organized under laws of this State or the United States, shall be taxed for value of its stock in county, town, city or district where located and not elsewhere, regardless of residence of stockholders.

Banks of discount and deposit, incorporated under laws of Montana for not less than $20,000, all paid in cash, may do business when authorized by state auditor, certificate of auditor to be published four times in town or county where located. Each director must own at least ten shares of the bank's stock. Bank may deal in real estate only as is necessary to the proper transaction of its business, or in realizing upon securities. Directors must declare semi-annual dividend out of net earnings, and at same time make report to State auditor of assets and liabilities, and publish once. Stockholders are liable for banks' debts to extent of stock held by them. Their liability continues six months after a transfer of the stock. Failure to comply with requirements for sixty days forfeit franchise.

The total liability of any person, firm, corporation, or company to any such bank for money borrowed shall at no time exceed fifteen per cent of paid in capital and permanent surplus; this does not apply to discount of bills of exchange drawn upon existing values or of commercial paper owned by person negotiating same.

Each such bank must keep on hand funds equal to 20 per cent of its immediate liabilities half cash and half balances due from solvent bank. One hundred dollars to five hundred dollars penalty for making new loans while reserve below the proportion. Laws provide for state examiner, who visits and examines financial condition of banks yearly. Banks charged certain fees for State examiner fund.

Any employee, officer, or agent of any bank or person doing a bank business, who receives deposits knowing or having reason to know that such banking institution is unsafe or insolvent, is guilty of felony, and is liable to imprisonment for one to twenty years.

Banks may be dissolved by district court upon voluntary application, or when declared insolvent by state examiner. Saving bank corporation may be organized with not less than $100,000 nor more than $500,000 capital divided into shares of $100 each, $100,000 to be subscribed in cash before beginning business. May do a general deposit and loan business. Stockholders liability to same extent as in other banks.

Foreign banking corporations may establish branch banks in this State upon compliance with certain special laws.

Bank is not liable for payment of forged or raised check, unless claim is made within one year after check is returned paid to depositor. (Session 1909.) Liable for non-payment of check without malice only to amount of damages proven.

Contracts. Contracts of conditional sale retaining title in vendor must be filed with county clerk or are void as to bona fide purchasers, mortgagees or attaching creditors prior to filing.

Conveyances. Title to property of any kind (except a mere possibility not coupled with an interest), including a right of re-entry for breach of condition subsequent, and property in the adverse possession of another, may be transferred. Deed to several persons, except to executors and trustees, creates tenancy in common, unless expressly declared a joint tenancy in the deed. The fee simple title passes by a grant, unless expressly limited to a less title in the deed. Covenants that the grantor has made no previous deed to any other person, and that the premises are free from incumbrance by the grantor or any one claiming under him are implied from use of word "grant."

A married woman joining with her husband in any instrument affecting real property is bound thereby the same as though single if duly acknowledged by her. Instruments affecting real property may, if acknowledged, be recorded, and such record imparts notice to the world. (See Acknowledgments.)

Corporations are formed under the general statute, except banking, insurance and railroad corporations, and corporations not for profit, which are governed by special laws. Stockholders have one vote for each share, may vote in person or by proxy, and may cumulate votes in director elections. Articles of incorporations filed in county where principal office located, and copy filed with secretary of State; many hold only necessary real estate; from three to thirteen directors, who may be empowered to make by-laws; may classify directors; control business; stock issued for money or property; stock liability limited to unpaid portion, directors assenting to creation of debts beyond subscribed capital stock or making dividends out of capital stock are jointly and severally liable therefor; stockholder may examine books; written transfer or power of attorney to sell, and delivery of certificate passes title, between parties and against creditors; may be attached on books of corporation. Every domestic corporation having a capital stock must file report in county clerk's office, within twenty days after December 31st of each year, showing amount of capital stock, amount paid in cash, and amount paid in property, amount of existing debts, and names and addresses of directors, president, vice-president, general manager and secretary; directors neglecting to file are jointly and severally liable for debts existing during failure to file; director may exonerate himself by filing within ten days after default affidavit showing that during the twenty days he asked president or sufficient directors to file, and that default is not due to his neglect.

Foreign corporations, except insurance companies and corporations otherwise provided for, may do business after filing with secretary of state and in county where intend to do business, copy of charter and verified statement of president and secretary, showing name, capital stock, amount paid in money or property, assets and of what consist, and their actual cash value, and amount of liabilities; also a consent to be sued and appointment of agent for service of process and acceptance of same. Must pay to Secretary of State filing fees upon proportion of business and assets in Montana to total business and assets of corporation. If capital increased or diminished must file certificate thereof with seccetary of state and county clerk, and refusal to do so forfeits right to do business in State. Must within two months after April 1st, file report like verified statement just mentioned, in county clerk's office, and copy with secretary of state. Can have no greater rights or privileges than domestic corporations.

Foreign corporations doing business in this State are made subject to the jurisdiction of the courts of this State the same as domestic corporations and their stock is made attachable in this State. (Session 1909.)

Courts. District courts have original jurisdiction in law and equity where over $50 involved; have probate and criminal jurisdiction. City police courts of petty criminal jurisdiction. Justices of peace limited to $300, petty criminal cases; cannot try title to land, nor questions of constitutionality. Appeals lie from justice to district and from district to supreme court. Supreme court appellate court of last resort, except has original jurisdiction in applications for habeas corpus and similar writs.

Days of Grace. None.

Depositions of resident may be taken when witness is a party in interest, or resides out of the county, or is about to leave and will probably continue absent, or is too infirm to attend; or the testimony is to be used on a motion, or when witness is only one who can establish a material fact and his presence cannot be procured at the trial. Examination may be upon oral questions or by agreement upon written interrogatories. In case of non-resident within United States, judge may issue commission upon five days' notice, if parties do not agree upon person, to any judge, or justice or commissioner. If out of United States, may be directed to a minister, embassador, consul, vice-consul or consular agent of the United States in such country, or to such person as may be agreed upon. Examination of non-residents unless otherwise agreed, must be by written interrogatories.

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Descent. Intestates' real and personal property, subject to payment of debts, descends as follows: If widow or surviving husband and one child, half to each; if widow or surviving husband, and more than one child or one child and lawful issue of one or more deceased child, one-third to husband or wife and two-thirds to such children and issue per stirpes; if no child living, two-thirds to lineal descendants, equally if of same degree, if not, per stirpes; if issue and no husband or wife, whole estate to issue if such issue consists of more than one child living and lawful issue of deceased child or children, then in equal shares to living children and issue of deceased children per stirpes; if no issue, one-half to husband or wife and one-half to father and mother in equal shares, or is either be dead, the whole half goes to the survivor. If no father or mother one-half in equal shares to brothers and sisters or their children per stirpes. If no issue nor husband or wife, entire estate to father and mother equally, or to survivor. If no issue father, mother, husband, nor wife, in equal shares to brothers and sisters and to children of any deceased prother or sister per stirpes. If surviving husband or wife, and neither issue father, mother, brother, nor sister, entire estate to husband or wife; if none of above mentioned, to next of kin in equal degree, claiming through nearest ancestor; if leaves more than one child, or one and the issue of one or more deceased children, and any such child die unmarried under age, his share goes to children of same parent or their issue per stirpes. If no husband, wife or kindred, the property escheats to State. Illegitimate child is heir of person who acknowledges himself, in writing before a competent witness, to be its father and is an heir of his mother; if parents intermarry, is legitimatized.

Dower. Curtesy abolished. Wife endowed of third of lands owned by husband during marriage. Equitable estates and contracts included. No dower in lands mortgaged for purchase price as against mortgagee, nor in lands conveyed to him by way of mortgage unless he acquire absolute title during lifetime. Devise or bequest bars widow's dower unless otherwise expressed in will, but she may elect between devise or bequest and dower, within one year in writing. If husband die leaving no children nor descendants of children, widow may have, absolutely, one-half of all his estate after payment of debts, if she elect within two months after payment of debts. A woman may be barred of dower by jointure with her assent before marriage, consisting of freehold in lands of life, at least, beginning at death of husband. Dower is not affected except by wife's deed.

Execution unless stayed by order of court, may issue at once upon rendition of judgment; becomes lien on personalty upon seizure by officer holding writ. All property sold to highest bidder. Defendant or creditor may redeem from sale of real estate within year, or sixty days after previous redemption.

Exemptions. To head of family, homestead to value of $2,500, and descends as such to surviving wife or husband and children. Head of family allowed wearing apparel, chairs, tables, books, at $200, all necessary household goods and certain domestic animals and provisions for three months; forty-five days earnings exempt where necessary for support of family, except one-half such earnings may be taken for debts for necessaries. Generally, tools and implements of trade, libraries, etc., of professional men who are heads of families, are exempt.

Fraud. It is criminal fraud to attempt to obtain insurance money wrongfully; or fraudulently, destroys insured property; to issue, sell, transfer or pledge any false, fraudulent or simulated stock certificate or evidence of shares of any corporation, or any officer to sign any such certificate; unauthorized use of another's name in selling stock; for a director, officer, or agent of corporation to publish false report of its affairs; to falsely represent one's self as competent to sell or mortgage real estate when signature of husband or wife is necessary; to get money or property by false representations as to wealth or mercantile character; to sell any land after having once sold or agreed in writing to sell the same to another; to convey any real or personal property with intent to defraud and deceive others or to hinder or delay creditors; to wilfully certify any false acknowledgment with intent to defraud; to issue any false warehouse receipts or to wrongfully remove or dispose of any property for which a warehouse receipt has been issued; for the mortgagor to dispose in any manner of any property covered by chattel mortgage. Any negotiable instrument procured by fraud or circumvention to be executed is void even in hands of innocent holder.

Frauds, Statute of. Agreement of executor or administrator to answer for obligation of decedent out of his own estate; agreement not to be performed in one year; promise to answer for obligation of another, unless it is made an original obligation of promissory; an agreement upon consideration of marriage, except mutual promise to marry; for sale of personalty at a price of over $200, unless part of price paid or part of goods accepted, except at auction sale when auctioneer enter sale in sale book; lease for over one year; for sale of realty, or authorizing broker or agent to sell land for compensation; is void unless in writing signed by party to be charged or his agent duly authorized (in writing in case of agreements affecting real estate). Every transfer of property, or charge thereon made, every obligation incurred, every judicial proceeding taken, and every act performed, with intent to delay or defraud any creditor, or other person, of his demands, is void against all creditors of the debtor and their representatives or successors in interst, and against any person upon whom the estate of the debtor devolves in trust for the benefit of others than debtor. All declarations of trust in lands shall be in writing, except resulting trusts or trusts created by implication or operation of law.

Husband and Wife. Husband must support wife if able; if not, she must assist; husband has no curtesy; wife has dower; neither can be excluded from others dwelling; may contract with each other, or any other persons, the same as though unmarried; cannot alter legal relation by contract, except may agree to immediate separation, mutual consent being sufficient consideration; may hold property jointly or in common; wife may sue and defend alone; all property of wife is her separate property, and she can convey, or execute power of attorney thereon without husband's consent. Her deed must be acknowledged. Filing inventory of her personal property exempts same from claims against husband, except for necessaries for herself and her children. Wife must support husband out of her property if he is infirm. Wife may dispose of her property by will, except that such will must not, without his written consent, deprive husband of over two-thirds of her real estate or two-thirds of her personal property; wife may make contract, etc., the same as though single. If husband neglect to support his wife, bills for necessaries sold her can be collected from him, but not when separated by consent, unless support stipulated in such agreement.

Interest. Eight per cent on judgments and damages. In other cases 8 per cent in absence of agreement. May contract for not more than 12 per cent per annum.

Judgment of courts of record (including federal courts of county) if transcript of such judgment if filed in district court are lien on realty in county for six years; realty in another county becomes subject to lien upon filing of transcript of judgment in such county. Abstract of justice court judgment becomes lien on realty in any county where filed in district court.

Liens. Laborers and materialmen have lien, for labor or material, on property. Must file in couty clerk's office within ninety days and suit must be brought within a year after filing. Hotel, boarding, and lodging house keepers have lien on baggage of guests brought into such house. One performing service with respect to personal property, including feed and care of animals, has a lien upon such personalty or animals. Person furnishing another seed grain has lien upon crops produced thereby up to 700 bushels, to secure payment of purchase price. Verified lien must be filed in the office of the Clerk and Recorder. Such lien is prior to all other encumbrances.

Threshermen have lien upon crops threshed for services in threshing subject only to seed lien. Verified lien must be filed in the office of the Clerk and Recorder.

Limitations of Actions. Action upon judgment of any court of record, action to redeem from mortgage when mortgagee is in possession, ten years; actions for recovery of real estate or mesne profits thereof, ten years, but in such cases statute does not run against person who at the time title first descends or accrues is a minor, or insane, or imprisoned on criminal charge for less than life, until such disability ceases: upon contract, account or promise in writing, eight years; to establish lost, concealed, or destroyed will, or upon a judgment of a court not of record, five years; against sheriff, coroner, or constable for breach of official duty, action for damages for wrongful death, or for obligation not in writing, other than a contract, account or promise, three years; upon statutory liability for waste or trespass, detainer of or injury to chattels, for relief on ground of fraud or mistake, or for libel, slander, assault, battery, false imprisonment or seduction, two years. Against a sheriff or other officer for escape of civil prisoner; against municipality for violation of ordinance, against officer for money or property taken as such, and against railroad for stock killed or injured, one year; to recover stock sold for delinquent assessment, and actions against a county after rejection of claim by county commissioners, six months.

All cases not specifically mentioned, five years. Statute does not run during absence of defendant from this State.

Loans. Farmers loan department established.

Married Women. (See Husband and Wife.)

Mortgages of real estate are executed same as deeds. Husband and wife must join to bar dower or homestead, except purchase money mortgages. Non-judicial sale under power valid. Lien good for eight years after maturity of debt, and may be renewed by affidavit for eight years more. As to any mortgage now existing as to which eight years or more has elapsed same may be renewed for eight years by filing affidavit in six months from February 17, 1913.

Chattel mortgage must be duly acknowledged, and be accompanied by affidavit of mortgagee that same is made in good faith and not to hinder, delay, or defraud creditors; not valid except between parties until filed in county where property is situated. Lien good until maturity of debt not exceeding two years and sixty days. May be renewed by filing affidavit within sixty days after expiration of two years, stating amount still due, and alleging good faith, etc.

Negotiable Instruments. Must be payable in money and must contain an unconditional promise to pay a sum certain on demand or at a fixed or determinable future time;must be payable to order or to bearer; may be in installments and contain provision that on any default the whole shall become due; with exchange fixed or current rate, interest and attorney's fees for collection may authorize sale of collaterals and confession of judgment; if it reads "I promise to pay" all signers are jointly and severally liable may be payable at fixed time after date or sight, or after specified certain event, but not upon a contingency; need not specify value given nor place where drawn or payable; if issued, accepted, or endorsed when overdue it is payable on demand; may be payable to two or more payees jointly, or one or more of several payees; absence or failure of consideration a defense against one not a holder in due course and partial failure a defense pro tanto. One not a party to instrument placing a signature in blank before delivery becomes an endorser. Every endorser engages that on due presentment it shall be honored or that he will pay the amount to holder or any subsequent endorser who may be compelled to pay; no days of grace; when maturity falls on Sunday or holiday payment is due on next business day; if due on Saturday must be presented on next business day, but if payable on demand holder may present same before noon on Saturday. Fraud and circumvention in procuring execution of instrument is a defense against any holder.

Presentment. It is not necessary to charge one primarily liable if payable at special place ability and willingness to pay it there at maturity is equivalent to a tender; if not on demand it must be presented on day it falls due, if on demand then within a reasonable time after its issue, except a bill of exchange must be presented within reasonable time after its last negotiation.

Alterations. Fraudulent or material, do not affect original instrument in hands of innocent holder in due course.

Acceptance. Unconditional promise in writing to accept a bill before or after drawn is good in favor of all who take it upon faith thereof for value. The holder may decline a qualified acceptance and treat the bill as dishonored; if he takes qualified acceptance drawer and endorsers are discharged, unless they consent thereto.

Protest, of foreign bills may be made by notary public or by any respectable resident of the place in presence of two or more credible witnesses; bill of exchange does not operate to assign funds in hands of drawee and he is not liable unless he accepts.

Promissory Note. Must be unconditional promise in writing to pay on demand or at fixed or determinable time a sum certain in money to order or bearer, and where drawn to maker's own order is not complete until endorsed by him; may be in installments.

A Check is a bill of exchange on a bank payable on demand; must be presented within reasonable time after issue and if dishonored notice must be given or drawer is discharged to the extent of loss caused by delay; does not operate to assign any part of drawer's funds in bank and bank is not liable unless it accepts or certifies. If holder has check certified the drawer and endorsers are discharged.

The present negotiable instrument law of Montana consisting of 198 sections went into force March 7, 1903. Its provisions do not apply to instruments made prior thereto. The act so materially changes the law in this State as to suggest the propriety of special examination in any doubtful case.

This law is nearly if not quite identical with that now in force in New York, Illinois, and other states.

Replevin. The plaintiff in an action to recover possession of personal property may replevy the same at the time of issuing summons or at any time before answer, upon making affidavit showing that the plaintiff is the owner of the property or entitled to possession thereof; that it is wrongfully detained, and has not been taken for a tax, assessment or fine pursuant to a statute or seized under an attachment or an execution against the plaintiff; or if so seized that it is exempt; and also stating the actual value of the property. A demand for the delivery of the property should be indorsed upon the affidavit and an undertaking in double the value of the property must be given. The defendant has two days in which to except to plaintiff's sureties, or he may require the return of the property by giving an undertaking in double the value of the property. If such undertaking is not given within five days from the replevy the property must be turned over to the plaintiff.

Taxes. All kinds of property, except public property and property for beneficent purposes, are subject to tax for public purposes only.

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Such taxes are a lien upon the property, which lien has the effect of an execution levied on all such as are delinquent after the 30th day of November, after which a penalty of 10 per cent is added. The delinquent tax list is published in some newspaper on or before the last Monday of each year, and in not less than twenty-one and not more than twenty-eight days after the first publication sale of the real estate is made, subject to redemption within thirty-six months from date of sale. The purchase money draws interest at 1 per cent a month from the date of sale. The purchaser is entitled to a tax deed at the end of the thirty-six months but must give thirty days' notice to the owner or occupant of the property. Taxes are assessed to the party in whose name the property stands of record on the first Monday in March of each year. An inheritance tax of $5 for every $100 worth of property must be paid by anyone, not a blood relation, inheriting such property; and blood relations and adopted children pay a tax of $1 for $100 worth of property inherited. Estates under $7,500 not liable for inheritance tax.

Redemption may be made before deed by payment of taxes, 10 per cent penalty, 50 cents for publication, and interest at 1 per cent per month.

Action to annul tax deed must be brought in two years after date of issuance. [Session 1909.]

Wills. Every person over eighteen years of age and of sound mind may dispose of all his estate, real and personal, by will. All wills, except nuncupative, must be in writing. And all wills, except nuncupative and holographic, must be executed and attested as follows: 1. Must be subscribed by the testator himself, or some one in his presence and by his direction, must subscribe his name thereto. 2. The testator's signature must be made in the presence of the attesting witnesses or acknowledged to have been made by him or by his authority. 3. The testator must declare to the attesting witnesses that the instrument is his will. 4. There must be two attesting witnesses who must sign the will at the testator's request, in his presence. An holographic will is one entirely written by the testator himself and subject to no form. The estate bequeathed by a nuncupative will must not exceed $1,000 in value, must be proved by two witnesses, must have been made in actual contemplation, fear, or peril of death, and must be proved within six months after stating the testamentary words unless the substance thereof was reduced to writing within thirty days after they were spoken. A will executed according to law of the State where the testator was then domiciled may be probated in this State.

SYNOPSIS OF

THE LAWS OF NEBRASKA

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by MONTGOMERY, HALL & YOUNG, Attorneys at Law, Omaha.
(See Card in Attorneys' List.)

Acknowledgments. (See Deeds) may be made in this State before a notary, judge or clerk of any court, justice of the peace, county clerk or deputy, register of deeds or deputy, deputy clerk of district or county court in name of his principal, secretary of state, under seal, if the officer have one. If acknowledgment taken in any other state or territory, it must be in accordance with the laws of this State or of the state or territory where taken, and must be before some court of record or clerk or officer holding seal thereof, or a commissioner of deeds appointed by the governor of this State for that purpose, or notary public, or justice of peace; if before justice of the peace, acknowledgment must be accompanied by certificate of his official character under hand of clerk of some court of record, to which the seal of such court shall be affixed. If the officer have no seal, then the acknowledgment must have attached thereto a certificate of the clerk of a court of record, or other proper certifying officer of the district or state where taken, under the seal of his office, showing that the person taking the acknowledgment was at the date thereof, such officer as he is therein represented to be; that he is well acquainted with the handwriting of such officer; that he believes the said signature of the officer to be genuine, and that the deed or other instrument is acknowledged in accordance with the laws of such state, district, or territory. If acknowledgment taken in a foreign country, it may be acknowledged before any notary public, minister plenipotentiary, extraordinary or resident, chargé d'affaires, commissioner, commercial agent or consul of the United States. In executing acknowledgment, notaries public must write in the date when their commission expires or else said date must be imprinted on their seals.

Actions. Must be brought by real party in interest, except as to administrator, trustee, etc. However, assignees of choses in action assigned for purpose of collection may sue on any claim assigned in writing; but such assignees must give security for costs. Non-resident plaintiff must give security for costs.

Administration of Estates. (See Decedents.) County courts have exclusive jurisdiction over estates. Administration is granted to widow or next of kin, or both, or some one selected by them; but if unsuitable, or if they fail for thirty days after death of a party to apply for letters, same may be issued to a creditor, or to some one selected by the judge. Executors and administrators must give bond, as required by the court, and must, within three months after appointment, make report of all property belonging to deceased. General letters of administration are only issued after due notice to parties interested, and if case is urgent a special administrator may be appointed, who shall make report within two weeks. Personally is disposed of under direction of the county court, but to sell real estate, license must be obtained from the district court. Debts of decedent are a lien upon all real estate. If no administration within two years any heir of deceased or any person having acquired real estate from deceased or heirs may obtain from county court determination of heirs of deceased degree of kinship and right of descent of real property of deceased.

Affidavits. (See Depositions.) Affidavits may be made before anyone authorized to take depositions, and must be subscribed in presence of the officer and sworn to before him, and this fact must be stated in the affidavit. If made out of State and the officer has no seal, affidavit must have attached thereto a certificate of clerk of a court reciting authority of such officer.

Aliens. Non-resident aliens and foreign corporations may not own or hold real estate in Nebraska, but the widows and heirs of such aliens who held lands prior to March 16, 1889, have ten years to dispose of their interests, and those who acquired their ownership prior to that date may dispose of same during their life. If not so disposed of, the lands escheat to the State. However, non-resident aliens may acquire a lien upon real estate, and, pursuant or subsequent to such, may purchase such real estate, but shall dispose of same within ten years from time of acquiring title. These provisions do not apply to railroads nor to real estate upon which buildings are erected and maintained for manufacturing purposes, nor to that within the corporate limits of cities and towns. Aliens who declare their intention to become citizens of the United States thirty days before an election, conformably to the laws of the United States on subject of naturalization, are electors, same as citizens.

Arbitration. Instead of submitting a controversy to a court, parties may agree in writing to arbitrators, whose decision, after confirmation by the court, shall stand as a verdict. Judgment may then be entered and execution issued.

Arrests. Arrest and imprisonment in civil actions for debt are abolished.

Assignments. (See Exemptions, Acknowledgments.) Every assignment for benefit of creditors shall be made to the sheriff of the county, and shall include all property of the assignor, except such as may be exempt. Assignments shall be executed and acknowledged the same as a deed to real estate, and within twenty-four hours after its execution shall be filed for record in the county clerk's office, and if real estate is mentioned therein, it shall also be recorded in the register of deeds office, and within thirty days it shall be recorded in any other county where property conveyed be situated. A creditor may file and prove a claim and concurrent therewith, may pursue a separate remedy against the assignors for the collection of such claim. Conveyances, preferences, payments, pledges or transfers of property made by an insolvent debtor in contemplation of such insolvency, within thirty days prior to making an assignment, are void, except that the assignor may pay or secure clerks or servants' wages, not exceeding $100 to any one person, and may pay or secure any debt created within nine months prior to that time and may secure any debt contracted simultaneously with the giving of such security.

Assignments of wages of head of family void unless executed and acknowledged by husband and wife.

Attachments. The plaintiff at or after the commencement of an action may have an attachment against the defendant's property, when the amount is due, by filing an affidavit showing any of the following grounds: 1. That the defendant is a foreign corporation or non-resident of the State. 2. Has absconded with intent to defraud creditors. 3. Has left the county of his residence to avoid the service of summons. 4. So conceals himself that a summons cannot be served upon him. 5. Is about to remove his property, or a part thereof, out of the jurisdiction of the court with the intent to defraud his creditors. 6. Is about to convert his property, or part thereof into money for the purpose of placing it beyond the reach of his creditors. 7. Has property or rights in action which he conceals. 8. Has assigned, removed, or disposed of, or is about to dispose of his property, or a part thereof, with intent to defraud his creditors. 9. Fraudulently contracted the debt or, incurred the obligation for which suit is brought. The affidavit must further show the nature of plaintiff's claim, that it is just and the amount which affiant believes plaintiff ought to recover. No undertaking is required where the defendant is a foreign corporation, or is a non-resident of the State but in such cases no attachment can be had for claim other than debt or demand arising upon contract, judgment or decree, unless plaintiff has been bonafide resident of state for six months preceding filing of petition. In all other cases plaintiff must give an undertaking in double the amount of his claim. If property cannot be seized by the officer it may be reached by garnishment process. To obtain attachment in an action not founded on contract, original petition must be presented to judge of supreme, district or county court who shall make an allowance thereon of the amount in value of the property that may be attached, and the amount of bond, if any, to be given by plaintiff.

Banking. Only National banks and state banks which are incorporated under the laws of Nebraska, can transact banking business here. State banking board has general supervision and control of all state banks. Every state bank must obtain charter from this board. Board appoints examiners who investigate affairs of each bank at least twice a year. After each examination bank must pay to state treasurer fee of $15 to $50, according to capital, not more than two fees in one year. Savings banks must have at least $15,000 capital; if in city of 50,000 to 100,000, $35,000; 100,000 or more, $75,000. Other banks must have capital as follows: Minimum, $10,000; in town of 100 to 500, 15,000; 500 to 1,000, $20,000; 1,000 to 2,000, $25,000; 2,000 to 5,000, $35,000; 5,000 to 25,000, $50,000; 25,000 to 100,000, $100,000; 100,000 or more, $200,000. Such capital shall be in money, credits,national, state, county or municipal bonds, bank furniture, and the bank building and ground on which situated, which ground shall be unincumbered, but in no case shall the bank building and ground, together with furniture and fixtures, exceed in value one-third or the furniture and fixtures alone 10 per cent or the national, state, county and municipal bonds one-of the half paid-up capital. Before commencing business the bank shall make a detailed statement of the proposed business to the banking board, which, after approval, shall issue a charter. Every bank must make at least quarterly detailed reports under oath, showing the amount loaned upon bonds and mortgages, amount loaned upon notes, bills of exchange, overdrafts, and other securities, with the actual market value thereof, the amount of rediscounts and of commercial paper past due, the amount invested in real estate, at cost, the amount of cash on hand and on deposit in banks or trust companies, with their names and the amount deposited in each, and the amount of all other assets, together with such other information as the banking board may require. A summary of such report must be published in some local newspaper and proof of such publication transmitted to the banking board, and such board may call for special reports at any time. Failure to make reports entails a penalty of $50 for each day's delinquency, and those making false statements in such reports or in the books of the bank may be punished as felons. It is likewise a felony for a bank to receive moneys or permit same to be received on deposit when the bank is insolvent; to loan to an officer or employe of the corporation without the approval of a majority of the directors; to carry as assets any note or obligation of the partnership, member thereof, or individual, where such partnership or individual do a banking business; to permit shareholders, where the bank is a corporation, to become indebted in a sum exceeding 50 per cent of the paid-up capital of such bank. Every stockholder is liable for debts accruing during his ownership of stock, for an amount equal to the paid-up value of the shares held, and all shares of stock are assessed in the place where the bank is located, whether the owners thereof reside there or not, and taxes are a lien upon the stock. A guaranty fund is provided by assessments on all state banks based upon the average daily deposits. Bank other than savings bank shall not permit loans and investments, exclusive of reserve and banking house and fixtures to exceed ten times amount of capital and surplus. All state banks in cities of over 25,000 must keep a reserve of 20 per cent. Rediscounts and bills payable must not exceed paid up capital and surplus except for payment of depositors. State banks and trust companies may become members of federal reserve bank.

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

Blue Sky Law. (See Corporations.)

Bulk Sales. (See Sales.)

Chattel Mortgages. Every chattel mortgage, if not accompanied by an immediate delivery of the goods and be followed by an actual and continued change of possession thereof, is absolutely void as against creditors of the mortgagor and as against subsequent purchasers and mortgagees in good faith, unless such mortgage, or a copy thereof, be filed in the county clerk's office where the mortgagor resides, and if he be a non-resident, then in the clerk's office of the county where the mortgaged property be situated. Such chattel mortgage need not be acknowledged unless it convey household goods used in the family by the husband and wife, or either, in which case it must be signed and acknowledged by both husband and wife, the same as real estate conveyances. Verbal mortgages are good between the parties. It is a felony to transfer or dispose of personal property mortgaged without procuring the consent of the mortgagee, or to remove same out of the county with intent to defraud the mortgagee of his security.

Claims. (See Accounts, Administration of Estates.)

Commercial Travelers. (See Licenses.)

Conditional Sales. A sale or lease of personalty may be made and title thereto retained in the vendor until the purchase price be fully paid, or condition complied with, by having the contract of sale or lease in writing signed by the vendee or lessee, and then filing copy of same in the county clerk's office, with affidavit of vendor, his agent or attorney attached thereto, giving names and full and true interest of parties and description of the property. Such sale or lease shall be invalid at expiration of five years as against purchasers in good faith, or judgment or attaching creditors, unless the vendor or lessor shall, within thirty days prior to the expiration of the five years, repeat the filing, which must be made annually thereafter. These sales are valid as between the parties and as against judgment or attaching creditors and subsequent purchasers and mortgagees with notice.

Consignments. It is a felony on the part of a factor or agent to whom goods have been consigned to sell or assign such goods with intent to defraud the owner. Is also a felony for the owner of goods, after receiving an advancement upon the shipment, to sell or transfer such goods contrary to the agreement between him and the consignee.

Contracts. Every contract for the purchase or sale of real estate or any interest therein, except a lease for a period not exceeding one year from the making thereof, must be in writing and subscribed by the party to be charged. Every agreement by its terms not to be performed within one year from the making thereof, every special promise to answer for the debt, default or misdoings of another, every agreement, promise, undertaking made upon consideration of marriage, except mutual promise to marry, and every special promise of an executor or administrator to answer damages out of his own estate, and every contract for the sale of goods and things in action, for the price of $50, or more, shall be void unless note or memorandum be made in writing by the party to be charged thereby. If, however, when contract for sale of goods and chattels of the value of $50 or more is made, and a part of the purchase price thereof is paid, or a part of the goods and chattels are delivered, to the buyer, no memorandum is necessary. (See Statute of Fraud.)

Conveyances. (See Deeds, Mortgages, Conditional Sales.)

Corporations. (See Foreign Corporations.) Any number of persons may associate and incorporate for the transaction of any lawful business, including the construction of canals, railways, bridges, and other works of internal improvements. Every corporation, as such, has power: 1. To have succession by its corporate name. 2. To sue and be sued, to complain and defend in courts of equity and law. 3. To make and use a common seal and alter the same at pleasure. 4. To hold personal estate and all such real estate as may be necessary for the legitimate business of the corporation. 5. To render all interest of the stockholders transferable. 6. To appoint such subordinate officers and agents as the business of the corporation shall require, and allow them a suitable compensation therefor. 7. To make by-laws not inconsistent with any existing law, for the management of its affairs. Every corporation previous to the commencement of any business, except its own organization, when the same is not formed by legislative enactment, must adopt articles of incorporation and have them filed in the office of the secretary of state; and domestic corporations must also file with the county clerk in the county where their headquarters are located. Banking corporations and building and loan associations must also file with State Banking Board. Insurance companies, holding companies and all companies under control of state auditor must also file with that department. The articles of incorporation must fix the highest amount of indebtedness of liability to which the corporation shall, at any one time, be subject, which must in no case exceed two-thirds of the capital stock. (Exceptions made for insurance companies, deposits in banks, loan and trust companies.) Must incorporate within one year after organization, or power ceases. Notice must be published in some newspaper near the principal place of business, for four weeks. Such notice shall contain: 1. The name of the corporation. 2. The principal place of transacting its business. 3. General nature of the business to be transacted. 4. The amount of capital stock authorized, and the time and conditions on which it is to be paid in. 5. The time of commencement and termination of said corporation. 6. Highest amount of indebtedness or liability to which corporation is at any time to subject itself. 7. By what officers the affairs of the corporation are to be conducted. The notice required must be published within four months from the time of filing such articles. Two-thirds of its members may dissolve corporation unless otherwise adopted in articles of incorporation. Copy of by-laws of the corporation, with the name of all the officers appended there must be posted in some conspicuous place at the place of doing business, subject to public inspection. Shall give notice annually, in some newspaper printed in the county or counties, or in State if none in the county, of the amount of all existing debts of the corporation, signed by the president and a majority of the directors. If corporation shall fail to do so, stockholders of corporation shall be jointly and severally liable for all the debts of the corporation after exhausting its assets, and for all debts contracted before said notice is given, to the amount of the unpaid individual subscription of any stockholder to capital stock, and in addition thereto the amount of capital stock owned by such individual.

All corporations, whether incorporated under laws of Nebraska or any other State, must procure a state occupation permit from secretary of state, annually, before they may do business here. Annual fees for such permit as follows based upon capital stock of home companies, or on that portion of capital stock of foreign companies which represents Nebraska business: Capital of $1,000 to $10,000, fee of $5; $10,000 to $20,000, $10; $20,000 to $30,000, $15; $30,000 to $40,000, $20; $40,000 to $50,000, $25; $50,000 to $60,000, $30; $60,000 to $70,000, $35; $70,000 to $80,000, $40; $80,000 to $90,000, $45; $90,000 to $100,000, $50; $100,000 to $125,000, $60; $125,000 to $150,000, $70; $150,000 to $175,000, $80; $175,000 to $200,000, $90; $200,000 to $225,000, $100; $225,000 to $250,000, $110; $250,000 to $275,000, $120; $275,000 to $300,000, $130; $300,000 to $325,000, $140; $325,000 to $350,000, $150; $350,000 to $400,000, $160; $400,000 to $450,000, $170; $450,000 to $500,000, $180; $500,000 to $600,000, $200; $600,000 to $700,000, $250; $700,000 to $800,000, $300; $800,000 to $900,000, $350; $900,000 to $1,000,000, $400; $1,000,000 to $10,000,000, $400, and $75 additional for each million or fraction thereof over $1,000,000; $10,000,000 to $15,000,000, $1,200; $15,000,000 to $20,000,000, $1,500; $20,000,000 to $25,000,000 $2,000; over $25,000,000. $2,500. These fees, taxes and penalties are first lien on all property of the corporation. Fee for domestic corporations payable July 1st. for foreign corporations, during month of July. Fifteen per cent penalty for 30 days delinquency after 3 months wilful default, attorney general on request of secretary of state must bring action to forfeit charter. Foreign corporation must appoint resident agent on whom process may be served.

Blue Sky Law, prohibits sale of most corporate securities except upon permit by State Railway Commission. Detailed sworn statements required. Permit fee, $25, first year, $10 year thereafter for each agent, one permit, one dollar per year. State railway commission investigates and gives information but does not recommend securities. Par value of stocks must be $100.

Costs. (See Security for Costs.)

Courts. (See Actions, Appeals.) Juvenile courts are established for treatment and control of dependent, neglected and delinquent children. Justice and county courts are for all practical purposes, open at all times except holidays; but their jurisdiction is limited. District courts have general jurisdiction, and have exclusive jurisdiction in certain cases. The terms of the district court in each county are fixed by the presiding judge at the beginning of each year. The supreme court has original jurisdiction in a few cases provided by statute, but its work is principally confined to reviewing decisions of the district court.

Curtesy. Abolished 1907. (See Decedents.)

Days of Grace. (See Notes.)

Decedents. (See Administration of Estates.) If a party leaves no will his property descends subject to his debts as follows: 1. One-fourth to the husband or wife, if survivor is not the parent of the children. 2. One-third to the husband or wife, if survivor is parent of the children. 3. One-half to husband or wife, if one or no child living. Residue to blood relatives. 4. If no husband or wife surviving, to the children in equal shares and lawful issue of deceased child by representation. 5. If no issue, to father and mother or survivor. 6. If no issue nor parents, in equal shares to brothers and sisters and children of such deceased, by representation. 7. If no parents nor brothers nor sisters, to next of kin in equal degree, but where there are two or more collateral kindred in equal degree, but claiming through different ancestors, those claiming through nearest ancestor are preferred to those more remote. Provision is also made for surviving children dying under age unmarried. Claims against estates must be presented within time fixed by probate court, of which notice is given by advertisement, and is not less than six months nor more than two years after letters of administration issue. Dower and curtesy are abolished.

Deeds (See Acknowledgments, Married Women) must be signed in presence of one witness and acknowledged. Grantor's seal not required. Deed conveys all interest of the grantor, unless a contrary intention is expressed.

Depositions may be taken at any time after service of summons, and may be used as evidence only when the witness does not reside in the county of trial or is absent therefrom, or is unable to attend court, or is dead, or when written testimony is required instead of it being oral; may be taken before various officers, but are usually taken before a notary public. The officer must not be a relative or the attorney of either party or otherwise interested in the event of the action, and this fact should be stated in his certificate attached to the deposition. If taken out of the State, and the officer has no seal, a certificate under the great seal of the State, or of a clerk of a court of record under seal should be appended, stating that the officer was, at the time of taking the deposition, properly authorized.

Descent and Distribution. (See Decedents.)

Distress for Rent. No authority for it.

Dower. Abolished 1907. (See Decedents.)

Employers Liability Act, in force. Applies to employers having five or more employes. Provides for medical and hospital services and medicines, and schedule of benefits payable weekly. Maximum for death, $3,500.

Estates. (See Decedents.)

Executions (see Judgments, Proceedings in Aid of Execution Mortgages) may issue at any time after judgment, if no stay bond be filed, and until five years thereafter. Land sold upon execution or decree of court may be redeemed by the debtor at any time before confirmation of such sale. A stay of execution is allowed by giving bond with approved sureties as follows: In district court within twenty days, on judgments not exceeding $50, three months; $50 to $100, six months; exceeding $100, nine months. In justice and county courts, within ten days, as follows: $10 or under, stay of sixty days; $10 to $50, ninety days; $50 to $100, six months; over $100, nine months.

Exemptions. A head of a family has exempt from levy and sale certain personal property and household furniture enumerated in the statute, and in addition thereto has exempt a homestead not exceeding in value $2,000, exclusive of the mortgage thereon, consisting of a dwelling in which the party resides and appurtenances and 160 acres of land on which same may be situated, or, at the option of the party, two contiguous lots in any incorporated city or village. Such exempt property shall be free from all judgment liens and from sale on execution, except that the homestead may be sold on foreclosure of mechanics' liens, and of mortgages executed by both husband and wife. If party has no homestead as above stated, he shall have exempt the sum of $500 in personal property in addition to the articles enumerated by statute. Mechanics, miners, or other persons, whether heads of families or not, have their tools and instruments exempt, and a professional man's library and implements are likewise exempt. All pension money, and property purchased and improved therewith, not exceeding $2,000 in value, is exempt. Exemption law does not apply to claims for clerks, laborers or mechanic's wages, nor can an attorney plead exemption in a suit for money or other valuable consideration received by him. Only 90 per cent of wages are exempt as against a debt for necessaries of life.

Foreign Corporations (see Corporations, Aliens) may become domestic by filing with the secretary of state a true copy of charter or articles of association, together with a certified copy of resolution adopted by the board of directors accepting the provisions of the act of the legislature of Nebraska, Chapter 42, Laws of 1889; must make written report to Secretary of State annually in July in form prescribed by secretary of state and pay fee same as occupation tax for domestic corporations; must on or before September 15th, of each year, file a statement with attorney-general of State, sworn to, showing capital stock, its market value, how paid, names of officers, directors and agents, amount paid in dividends and rate of percentage thereof, all stock held in other corporations and value of such stock, amount of its own stock held by other corporations and value thereof, and amount of trust stock held by other corporations. Does not apply to insurance companies or common carriers. Must appoint agent and file name with secretary of state and with register of deeds in county of principal place of business. Service may be had on such agent or on state auditor. Secretary of state charges fee of $50.00 for keeping record of agent. Penalty $1,000 fine. Agent or representative doing business here for corporation that has no

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resident agent, subject to $25 fine. Does not apply to insurance companies and railroads. Any corporation whose products are sold in Nebraska must have a resident agent on whom service in legal action can be had. Sale by jobbers of goods of foreign corporations not so represented is prohibited.

Fraud. (See Statute of Frauds, Limitations, Consignments.) Conveyances made for the purpose of defrauding creditors are void and intent is deemed a question of fact, not of law.

Garnishment. (See Attachment.) Writ may be issued before judgment in attachment proceedings. After judgment and after execution returned unsatisfied, writ will issue by filing affidavit for same. No bond required after judgment.

Holidays are January 1st, February 12th, February 22d, April 22d, May 30th, July 4th, first Monday in September, October, 12th, Thanksgiving, and December 25th. No court can be open, nor can any judicial business be transacted on a holiday or Sunday, except, first, to give instructions to a jury then deliberating on their verdict; second, to receive a verdict or discharge a jury; third, to act as magistrate in a criminal proceeding; fourth to grant or refuse a temporary injunction or restraining order. If any such fall on Sunday, the next day shall be a Holiday.

Homestead. (See Exemptions.)

Husband and Wife. (See Decedents, Divorce, Evidence, Exemptions, Married Women, Marriage.)

Infancy. Males under twenty-one and females under eighteen are infants. County court appoints guardians, but if infant over fourteen years, may nominate his own. Infants' real estate may be sold or mortgaged to obtain funds for maintenance by permission of district court.

Insolvents. (See Assignments.)

Interest. Legal rate is 7 per cent and contract rate 10 per cent. Judgments draw same rate as specified in the instrument on which judgment obtained, otherwise 7 per cent. A contract is not avoided by usury, but in action thereon all payments are deducted from the principal and plaintiff recovers only the balance, without interest and pays all costs

Judgments. (See Actions, Appeals, Exemptions, Executions, Interest.) Those recovered in district court are liens upon real estate of debtor from first day of term at which rendered, except those by confession and those rendered at the same term at which action commenced are liens only from date of rendition. Judgments of county and justice courts become liens from date of filing transcript in the office of the clerk of the district court. Judgments may be made a lien upon lands in other counties by filing transcripts in the office of the clerk of the district court in such counties. A judgment becomes dormant in five years and lien upon real estate is lost if execution not issued within that time. After dormancy may be revived by certain proceedings. Dormant judgments cannot be revived unless action to revive be commenced within ten years. In judgments by confession cause of action must be stated in the judgment or in a writing filed as a pleading. Deficiency judgments may be recovered in mortgage foreclosure cases, if the deficiency be such that it may be recovered at law.

Jurisdiction. (See Actions, Judgments.)

Justices of the Peace. (See Courts, Judgments, Actions.)

License. (See Insurance Agents.) Commercial travelers are not required to take out a license. There is a provision in the code requiring peddlers and commission merchants to take out a license. Does not apply to persons selling their own works or productions or books, charts, maps or other educational matter, or fresh meats, fruit, farm products, trees or plants exclusively.

Liens. (See Judgments.) Material men and laborers and mechanics are entitled to liens upon the building or improvements for material furnished and labor performed, by filing in the office of the register of deeds an itemized statement of account duly verified by affidavit of party, showing amount due, nature of the contract description of property, names of the parties; and if the claim arise out of a written contract, or if a note or other written evidence has been taken in payment of the account, copies must be attached. An original contractor must file such statement within four months from the time of furnishing such material or performing the labor; a subcontractor within sixty days. Lien dates back to commencement of work or labor and is valid for two years from date of filing. All mechanics' liens on the same premises are of equal priority and prorate in the proceeds of sale of property, if sold under foreclosure thereof.

Limitations. Actions brought to recover real property or foreclose mortgages thereon must be commenced within ten years after cause of action accrues. Actions for forcible entry and detention, libel, slander, assault and battery, malicious prosecution, false imprisonment, and those to enforce penalties or forfeitures, must be commenced within one year. Actions for trespass to real property, taking, detaining or injuring personal property, upon contracts not in writing upon a liability created by statute other than a forfeiture or penalty, for injuries to rights not arising out of contract, for relief on the ground of fraud, and all other actions not specifically limited by statute, must be commenced within four years. Actions upon a specialty, agreement, contract in writing, promissory notes, etc., and foreign judgments, must be commenced within five years. Actions upon official bonds of executors, administrators, guardians, sheriffs, or other officers, and upon statutory bonds, must be commenced within ten years. If parties under disability, cause of action does not commence to run until such disability removed. Actions for damages for causing death must be brought within two years.

Limited Partnership. (See Partnerships.) Articles thereof must be in writing, acknowledged by the parties and recorded in the office of the county clerk of every county where partnership shall have a place of business. The special partner is not liable beyond the amount contributed to the partnership funds, but has nothing to do with the management or conduct of the ousiness; otherwise is liable as general partner. Special partner's name shall not appear in the firm.

Married Women (see Decedents, Evidence, Exemptions, Marriage) may contract, bargain, sell, and convey their separate property in the same manner as may a married man, and retain ownership and control of their own property notwithstanding the marriage. May sue and be sued, carry on trade or business as if unmarried, and earnings of any married woman are her sole and separate property.

Mortgages. (See Actions, Acknowledgments, Courts, Dower, Limitations, Chattel Mortgages.) Mortgagor, regardless of stipulation contained in mortgage (and in the absence of special agreement, which must be in a separate writing), retains legal title and right of possession of property. In case of assignment of mortgage it is safer to record the assignment. If note secured by mortgage is negotiable assignment need not be recorded. Release may be by separate instrument or upon the mortgage records in register of deed's office, and if mortgagee, after mortgage fully paid, neglects or refuses for seven days to discharge such mortgage, he is liable to a penalty of $100 and all actual damages suffered by the other party. Mortgages can only be foreclosed by suit, and after foreclosure suit commenced no action can be maintained at law upon the debt, unless authorized by the court and if action be first commenced at law, cannot foreclose the mortgage until judgment obtained and execution returned thereon unsatisfied. After decree of foreclosure of mortgage obtained, defendant may stay further proceedings for nine months by filing a request for stay in the office of the clerk of the court within twenty days after such decree entered. Such stay is equivalent to redemption period allowed in other States, and owner may redeem at any time before confirmation of sale. Deeds are held to be mortgages when intended only as security, and must be foreclosed same as mortgages.

Negotiable Instruments. (See Notes.)

Notes and Bills. All notes, bonds, or bills of exchange, except bank checks and instruments payable on demand, are payable at times fixed therein, without grace; are not negotiable unless drawn payable to a person, bearer, order, or assigns. If date of maturity fall on Saturday or Sunday, or a holiday, are payable on the next business day. Party purchasing negotiable paper before maturity, without notice, take same free from equities between original parties. Uniform negotiable instrument law is in force.

Partnership (see Limited Partnerships) must adopt and sign articles of partnership agreement showing firm name, nature and place of business, name and residence of each member, and file same in the office of the county clerk of the county where business is located. Neglect or refusal to comply with this requirement entails penalty, but does not affect legality of business transacted. Partnership may sue and be sued in the firm name, and it is not necessary to set forth in the pleading, or prove at the trial, the names of the persons composing the firm, but in such event plaintiff must give security for costs.

Pleadings. (See Actions.)

Power of Attorney to convey real estate must be executed and acknowledged same as deeds and may be recorded.

Practice. Regulated by code which is patterned after Ohio.

Probate. (See Courts, Decedents.) County court has exclusive original jurisdiction of all probate matters.

Promissory Notes. (See Notes.)

Proof of Claims. (See Decedents, Accounts.) Same rules of evidence govern as in civil actions.

Protest. (See Notes.)

Replevin. Party may recover possession of personal property within four years after cause of action accrued by filing petition and affidavit of himself, agent or attorney, giving a description of the property, stating the facts connected with the ownership, and that he is entitled to the immediate possession, etc., of the property. It is then seized by the officer and duly appraised, and within twenty-four hours thereafter plaintiff must give bond in double the appraised value, conditioned that he will duly prosecute the action and pay all costs and damages that may be awarded against him, and return the property or its reasonable value to the defendant in case judgment for a return be rendered.

Revenue. (See Taxes.)

Sales. (See Conditional Sales.) Merchant cannot sell in bulk without notice to creditors.

Security for Costs. Non-resident plaintiff must give security for costs or furnish cash bond.

Statute of Limitations. (See Limitations.)

Stay. (See Executions, Judgments, Mortgages.)

Suits. (See Actions.)

Summons. (See Actions, Attachments, Divorce, Service.)

Taxes. Taxes on real property are a lien thereon from October 1st of year of levy. Taxes on personal property are a lien thereon from November 1st of year of levy. Tax deed may issue after two years from date of sale certificate. Inheritance tax runs from 1 per cent upward. For all real estate taxes delinquent one year or more, the county may sell the property by action in court.

Torrens System of land registration will be in effect in this state after Jan. 1, 1916.

Trust Companies are authorized to act as executors, administrators, receiver, agents, etc.

Trust Deeds are seldom used and are treated as mortgages.

Wills. (See Decedents.) Every person of full age and sound mind may dispose of his property by will, which must be signed by the testator, or under his express direction, by some one in his presence and subscribed in his presence and in the presence of each other, at his request, by two or more competent witnesses. Nuncupative wills are valid when proved by the oath of three witnesses present at the making thereof, and when the testator at the time asked the persons to bear witness that such was his will, or words of like effect. No will shall be effectual to pass title to any property unless probated. Foreign wills duly proved and allowed in any state or foreign country may be probated in this State in any county wherein the testator shall have real or personal property, on which the will shall operate

Witnesses. (See Evidence.)

Workingmen's Compensation. (See Employers Liability.)

SYNOPSIS OF

THE LAWS OF NEVADA

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by JEROME L. VAN DERWERKER, Attorney and Counselor at Law, Reno. (See Card in Attorneys' List.)

Acknowledgments. Every mortgage, deed, or other conveyance, conveying or affecting real estate, shall be acknowledged or proved and certified as follows: If within this State it may be a judge or clerk of a court having a seal, notary public, county recorder, or justice of the peace. If without this State, and within the United States, by a judge or clerk of a State, United States, or territory court having a seal, a commissioner of deeds for this State, or some notary public or justice of the peace in his county. A justice's certificate which is attached to a deed to be recorded out of his county, must have a certificate of a clerk or a court of record of his county as to his signature and official character. If outside of the United States, the acknowledgment can be had before a judge or clerk of a court having a seal, or a notary public or a minister, commissioner, or counsel of the United States, the certificate of the officer taking the acknowledgment shall be annexed to or endorsed on the instrument, and shall

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be under hand and seal except in cases of justices of the peace which shall be under the hand of such justice of the peace and certified as above stated. The party executing and acknowledging the instrument must be known or proved by oath of witness to be the proper party, and the certificate must state such fact, and must state that he or she acknowledged that he or she executed the instrument freely and voluntarily and for the uses and purposes therein mentioned.

Conveyance by a married woman is acknowledged in the same way and form as that of a man and has the same effect as if she were unmarried. The form of acknowledgment by an individual shall be substantially as follows:

State of Nevada, County of..... On this.....day of....., A. D. .....personally appeared before me, a notary public (or judge or other officer as the case may be) in and for the County of....., State of....., ...known (or proved) to me to be the person described in and who executed the foregoing instrument, who acknowledged to me that he (or she) executed the same freely and voluntarily and for the uses and purposes therein mentioned.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written. ..... Notary Public in and for the County of....., State of.....(or other official name of the officer who takes the acknowledgment).

Form of acknowledgment of a corporation.

State of Nevada, County of..... On this.....day of....., A. D. ....., personally appeared before me a notary public (or other officer or judge as the case may be) in and for the County of....., State of....., (name of party who executes and acknowledges instrument) known (or proved) to me to be the president (vice-president or secretary) of the corporation that executed the foregoing instrument and upon oath did depose that he is the officer of said corporation as above designated, that he is acquainted with the seal of said corporation and that the seal affixed to said instrument is the corporate seal of said corporation; that the signatures to said instrument were made by officers of said corporation as designated after said signatures; and that the said corporation executed the said instrument freely and voluntarily and for the uses and purposes therein mentioned.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written. ....., Notary Public in and for the County of....., State of.....(or other official name of the officer who takes the acknowledgment).

Form by attorney-in-fact:

State of Nevada, County of..... On this.....day of....., A. D. ....., personally appeared before me a Notary Public (or judge or other officer as the case may be) in and for the County of..... State of Nevada (name of person who executes and acknowledges instrument) known (or proved) to me to be the person whose name is subscribed to the within instrument as the attorney in fact of.....and acknowledged to me that he subscribed the name of said.....thereto as principal, and his own name as attorney-in-fact, freely and voluntarily and for the uses and purposes therein mentioned.

In witness whereof I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written. .....Notary Public in and for the County of....., State of.....(or other official name of the officer who takes the acknowledgment).

By the laws of the State of Nevada, any acknowledgment heretofore or hereafter taken or certificate thereof made without this State either in accordance with the laws of this State or in accordance with the laws of the State, Territory, or Country where the acknowledgment is taken, shall be sufficient in this State.

The certificate of acknowledgment of conveyance:

A certificate of acknowledgment of any conveyance or other instrument in any way affecting the title to real estate or personal property, or the proof of execution thereof as provided in the laws of Nevada, signed by the officer taking the same, and under the seal of such office, shall entitle such conveyance or instrument with the certificate or certificates of acknowledgment to be recorded in the office of the recorder of any county in this State provided that any State of United States contract or patent for land may be recorded without any such acknowledgment or proof.

Actions. (See Suits, Limitations.)

Affidavits. Affidavits taken out of this State to be used before any court or officer in this State must be taken before a notary public, a commissioner appointed by the governor of this State, or a judge of a court having a seal attested by the clerk. If in a foreign country such affidavits shall be taken before an embassador, minister, or consul of the United States, or judge of a court in such foreign country having a seal.

Aliens. Persons and corporations, except subjects of the Chinese Empire, have the same rights as resident citizens and domestic corporations, except that foreign corporations must comply with corporation laws of this State.

Appeals. Actions tried in justice court may be appealed to district courts, where trial is had de novo and can proceed no farther. Actions in which the district courts have original jurisdiction may be appealed to the supreme court.

Arbitration. Provision is made by law for the settlement of disputes by arbitration; the award of the arbitrators to be filed with the clerk of the district court and docketed the same as a judgment in civil action.

Arrest. 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. (See Attachment.)

Assignments and Insolvency. Except as affected by the national bankruptcy act of 1898, the following statute respecting assignment is in force: 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.

Attachment. 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 atttachment. 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, with an undertaking not less than $500, and an amount equal to one-fourth of demand, but not exceeding $5,000.

Banks. State—are regulated and controlled by a comprehensive general banking law. Amended (1915) to permit State banks to join Federal Reserve Bank System.

Conveyances. The husband has the entire management and control of the community property, with the like absolute power of disposition thereof, except as hereinafter provided, as of his own separate estate; provided, that no deed of conveyance, or mortgage, of a homestead as now defined by law, regardless of whether a declaration thereof has been filed or not, shall be valid for any purpose whatever, unless both the husband and wife execute and acknowledge the same as now provided by law for the conveyance of real estate.

Corporations. The laws of this State are substantially the same as those of New Jersey. Foreign corporations to transact business and institute actions in this State must file certified copy of articles of incorporation with the secretary of state and county clerk.

Curtesy is not recognized in this State.

Courts. Jurisdiction. District courts have original, statutory, and common law jurisdiction in all cases at law and 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, and in probate in all cases relating to estates of deceased persons, and persons and estates of minors, insane persons. Justice's jurisdiction, $300, exclusive of interest, and attorney's fees.

Deeds. A deed of quit-claim passes all the title that the grantor has at the date of the conveyance. A deed of grant, bargain and sale carriew with it the statutory covenant that at the time that the grantor executed the deed, he was the owner of the property conveyed and had not conveyed it to any other person and had placed no encumbrance upon it. This form of deed conveys any title that the grantor shall afterwards acquire. A warranty deed contains a covenant: "The grantor herein will forever warrant and defend the title to the premises herein described against any and all persons whomsoever claiming the same."

The law governing and form of acknowledgments is titled under "Acknowledgments."

Depositions. Depositions may be taken within this State before any judge, clerk, justice of the peace or a notary public, upon notice to the opposite party of the time and place of taking. Depositions may be taken out of the State upon commission under the seal of the court upon proper application, or by stipulation of the attorneys.

Divorce. Where personal service is secured in county, no definite time for residence required of plaintiff.

Residence is defined as follows:

"The legal residence of a person with reference to his or her right of suffrage, eligibility to office, right of naturalization, right to maintain or defend any suit at law or in equity, or any other right dependent on residence, is that place where he or she shall have been actually, physically and corporally present within the state of county, as the case may be, during all of the period for which residence is claimed by him or her; provided, however, should any person absent himself from the jurisdiction of his residence with the intention in good faith to return without delay and continue his residence, the time of such absence shall not be considered in determining the fact of such residence."

Dower is not recognized in this State.

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.

Exemption. Homestead, $5,000; the earnings of the debtor, if earned thirty days preceeding, if it is made to appear necessary for the support of the debtor, exempt where debt is for necessaries, or his family; personal and mining property, tools, implements, etc., exempt same as in California [which see].

Garnishment. (See Attachment.)

Holidays. Sunday, New Year's Day, Lincoln's Birthday, Washington's Birthday, Memorial Day, Fourth of July, Labor Day, October 12th and 31st (Nevada admission day), Thanksgiving, December 25th, and all days on which a general election is held, are non-judicial days and are termed legal holidays and generally observed as such. Also Arbor day fixed by proclamation of governor one month before fixing such date, and is only a holiday for public schools. Bills of exchange, checks, promissory notes, and other negotiable instruments falling due upon any holiday are payable the day previous.

Husband and Wife. (See Married Women.)

Interest. The legal rate is 7 per cent per annum, but parties may contract in writing for the payment of any other rate not in excess of 12 per cent per annum. After a judgment on such a contract, only the original claim shall draw interest, and the rate of interest must be mentioned in the judgment.

Limitations of Suits. Open or store account and contract not in writing, four years; upon contract or instrument of writing, six years; recovery of mining claims, two years; real actions—the person prosecuting or defending the same must show that he was seized or possessed of the premises within five years before the commencement or defense of the action, judgment, or decree of the district court—six years; of the justices court—five years. Revivor: Acknowledgment or new promise in writing. Judgments become a lien upon real property for two years. Foreign judgments, contracts, obligations or liabilities for the payment of money or damages executed or incurred out of this State, two years.

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, or unless the mortgage is verified by the oath of the mortgagor

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and mortgagee and is recorded in the county where the mortgagor and mortgagee reside. Recording is equivalent to possession, 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. The uniform negotiable instrument law has been adopted in this State.

Probate. All claims against estates of deceased persons must be filed within three months after the first publication of the notice of appointment of the executor or administrator. Estates not exceeding $2,000 in value, in the discretion of the judge, may be summarily administered, and in cases of summary administration all regular proceedings and notices are dispensed with, except the notice of the appointment of the executor or administrator. Creditors of such an estate must file their claims within forty days.

All estates of husband or father of $500 or less are distributed to widow or children under age without probate, not subject to any debts.

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. Personal service of a copy of summons and complaint is equivolent to the publication of the summons.

Taxes are a lien upon the property assessed and the real estate of the owner thereof from the first Monday in 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.

SYNOPSIS OF

THE LAWS OF NEW HAMPSHIRE

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by JOHN R. SPRING, Attorney at Law, Nashua.
(See Card in Attorneys' List.)

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.

Actions. The common law prevails as to procedure. Non-residents can institute suit, a resident becoming responsible for costs by indorsing the writ. Transitory action may be brought in the county where one of the parties resides. If both are non-residents the action may be brought in any county.

Administation of Estates. Administration shall be granted in the following order of precedence: To the executor named; to the widow, or any of the next of kin, or to such person as they shall nominate; to one of the devisees or to a creditor; to such other person as the judge shall think fit. A non-resident shall not be appointed unless urgent necessity demands. An ample bond with resident sureties shall be filed. No suit shall be brought against the administrator within the first year of his administration. Claims shall be presented within one year after his appointment, and no action can be brought after two years. Actions are not maintainable against an administrator of an estate, after a decree of insolvency. Estates may be administered in the insolvent course, and then a commissioner shall be appointed to examine and allow claims. Preferred claims, to be settled in full are: Expenses of administration, widow's allowance, charges of burial, and taxes. Claims for the last sickness shall be paid in full if there remains anything after paying the preferred claims. (See Arbitration.)

Affidavits. Affidavits are not admissible in evidence, being ex parte, but motions are heard upon affidavits presented to the court. May be made before an officer authorized to administer oaths. (See Attachments.)

Aliens. They are not entitled to vote. An alien may purchase, hold and convey real estate, and it will descend in the same manner as if he were a native born citizen. When the wife of an alien has resided in the State six months, separate from her husband, she acquires all the rights of the wife of a native born citizen.

Arrest. No female can be arrested in any action founded upon a contract or upon a conditional sale of clothing; nor can a voter on election day, or a defendant in a real action. The sheriff is exempt from arrest. (See Attachments.)

Assignments and Insolvency. Assignments for benefit of creditors to be filed in the probate court of the county in which debtor resides. The provisions of the law upon this subject are suspended by the United States bankrupt law.

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 or 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 necessaries the wages of the defendant up to $20 are exempt from such process. (Bill now pending in Legislature to modify trustee exemptions.) 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. (See Garnishment.)

Bank. 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 association, and trust company in the State by one of the three bank commissioners. (Bill now pending reducing number of bank commissioners to one.) 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.

Bills of Exchange. (See Notes, and Bills of Exchange.)

Chattel Mortgages. (See Mortgages.)

Collateral. There have been no statutory enactments on this subject. Pledgee of stock is not liable as a stockholder, but the general owner is.

Conveyances. Every deed, and lease for more than seven years, shall be signed, sealed, attested by two or more witnesses, acknowledged before a justice of the peace, notary public, or commissioner, and recorded in the registry of the county wherein the real estate is situated. Every power of attorney to convey real estate must be executed with the same formalities. Conditional conveyances must state the sum to be secured, or the thing to be performed. Administrators, guardians, and trustees can convey only by virtue of a license from the probate court. Sheriff's deeds shall give full particulars as to the action, and shall covenant that he has observed all the requirements of law.

Corporations. Corporations can be chartered by the legislature Voluntary corporations can be formed for any purpose except banking, life insurance, railroading or trading-stamp business. 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 $5,000,000, 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: $10 on a capital of less than $25,000; $25 on a capital between $25,000 and $100,000; $50 on a capital between $100,000 and $500,000; $100 on a capital between $500,000 and $1,000,000; and $200 where it exceeds $1,000,000. 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 as 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. The superior court has original jurisdiction over all causes The supreme court decides questions of law upon bills of exception, transferred from the superior court, and it holds its sessions every month, except July and August. Probate courts have jurisdiction over estates of deceased persons, insolvent estates, minors, insane persons, adoptions, change of names, trustees, and partition of real estate. District police courts and justices of the peace have concurrent jurisdiction with the superior court up to $100 when the title to real estate is not involved, and can render judgment upon confession up to $200. The terms of the superior court shall be held in each year at the times and places following: For the county of Rockingham, at Exeter, on the third Tuesday of January and the third Tuesday of April; and at Portsmouth on the third Tuesday of October. For the county of Strafford, at Dover, on the second Tuesday of February, and the third Tuesday of September. For the county of Belknap, at Laconia, on the first Tuesday of March and the first Tuesday of November. For the county of Carroll, at Ossipee, on the third Tuesday of May, and the second Tuesday of November. For the county of Merrimack, at Concord, on the first Tuesday of April and the first Tuesday of October. For the county of Hillsborough, at Manchester, on the first Tuesday of January, and the first Tuesday of May, and at Nashua the third Tuesday of September. For the county of Cheshire, at Keene, on the first Tuesday of April and the first Tuesday of October. For the county of Sullivan, at Newport, on the second Tuesday of May and the second Tuesday of November. For the county of Coos, at Lancaster, on the third Tuesday of April; at Colebrook, on the first Tuesday of September, and at Berlin, on the first Tuesday of December. For the county of Grafton, at Plymouth, on the second Tuesday of May and the second Tuesday of November; at Haverhill, on the third Tuesday of March and the third Tuesday of September; at Lebanon, on the third Tuesday of April and the third Tuesday of October.

Days of Grace. None except on sight drafts.

Depositions. The party proposing to take depositions shall give the opposite party a four days' notice, of which the following is a form:

"To A B. C., of etc., or ..... att'y of record: Depositions will be taken at the office of ....., in ....., in the County of ....., and State of ....., on the .... day of ....., 19...., at .... o'clock in the .....noon, in which action ..... is plff. and ..... is deft., to be heard and tried at the ..... Court to be holden at ....., in the County of ....., on the .... day of ....., 19... Dated at ..... this .... day of ....., 19.. ..... Justice of the Peace."

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One extra day's notice to be given, up to twenty days, for each twenty additional miles. 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 enclosed in an envelope and sealed up by the magistrate, with the following endorsement:

"To the Supreme Court.

Enclosed is the deposition of ..... to be used in the action of ..... vs. .....

Sealed up by me .....,
Justice of the Peace."

They should then be mailed to the clerk of the court where they are to be used. No deposition can be used in a jury trial unless taken before the Tuesday next preceding the Tuesday on which the term commenced.

A copy of the notice with the affidavit of service must be annexed to the deposition. The following is a form for the caption of the deposition:

"State of.....} ss.
County of .....}

Personally appeared before me, a Justice of the Peace within and for said County, the within named ....., on the .... day of ....., 19.., at .... o'clock in the .....noon, at the office of ....., ...Street, in ....., in said County, and made oath that the annexed deposition by him subscribed contains the truth, the whole truth, and nothing but the truth relative to the cause for which it was taken. Said deposition is taken at the .....request of ..... of ....., to be used in the .....Court, in an action now pending (or to be entered) in said Court, wherein of, etc., is plff. and of, etc., is deft. The taking of said deposition was begun at .... o'clock in the .....noon of said day, and was continued until finished. The said ..... was (not) present and did (not) object.

Dated at said ..... this .... day of ....., 19.....
..... Justice of the Peace."

Descent of Property. The real estate subject to dower or curtesy and homestead shall descend in equal shares as follows: 1. To the children and to the legal representatives of such of them as are dead. 2. If there be no issue, to the father and mother in equal shares, if both are living, and to the father or mother, if one of them is dead. 3. If there be no issue or father or mother, in equal shares to the brothers and sisters or their representatives. 4. To the next of kin in equal shares. If a person dies under age, his estate, derived by descent or devise from his father or mother, shall descend to his brothers and sisters, or their representatives, if any, to the exclusion of the other parent. No representation allowed beyond the degree of brothers' and sisters' grandchildren. The personal estate shall be distributed as follows: 1. To the widow, her share according to law. 2. To the same persons who would take as in the case of realty. The widow is entitled, in addition to her dower and homestead, to one-third or one-half of the personalty, as she does or does not leave issue surviving, and she holds the same interest in the real estate, by releasing her dower and homestead, and by waiving any provision in the will in her favor. In case the real estate (provided no issue survives) does not exceed $1,500 in value, the survivor, husband or wife, takes the whole thereof. The same provision exists as to distribution of the personalty. As to any balance above $1,500, the distribution is made according to the other provisions of the law, as above set forth. A surviving husband has the same rights in his wife's estate that a wife would have in her husband's estate. (See Dower.)

Dower. A widow is entitled to dower in the real estate of which her husband died seized, excepting in land not under cultivation or in a wood lot not used in connection with a farm. The dower may be assigned by metes and bounds, and the widow has an undivided net third part of the rents and profits until dower is assigned. She may be endowed with so much of the real estate of her late husband as will produce a yearly income equal to one-third of the total income.

Evidence. Persons are not excluded from testifying because of interest, except where the party is an executor, administrator or guardian of insane, and the subject of the testimony occurred during the life of the deceased, or prior to the ward's insanity, unless the executor, administrator, or guardian of the insane person elects to testify; or, when it is clearly shown to the court that injustice may be done by the exclusion of the testimony of such person. Husband and wife are competent witnesses for or against each other, except as to matters, which in the opinion of the court, might lead to the violation of marital confidence. In criminal proceedings, respondent may testify in his own behalf, if he elects, but not otherwise. Conviction of an infamous crime does not bar the party from giving evidence but bears upon his credibility. The rules of common law govern generally the admissibility of evidence.

Executions may be taken twenty-four hours after judgment, and are returnable before justice's and police courts in sixty days; before superior court, at the next trial term of court. Writ of possession issued sixty days after judgment. 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; one yoke of oxen, or a horse, when required for actual use; domestic fowls not exceeding $50; one pew, one lot in a cemetery, and hay not exceeding four tons.

Fraud. Aside from criminal frauds, the superior court, in the exercise of its equity functions, has jurisdiction over frauds.

Garnishment. Known to our law as trusteeing. Any personal action except trespass, defamation of character, and malicious prosecution, may be begun by trustee process. Trustees are not chargeable upon default. Wages earned after the service of the writ are not held by the process. Twenty dollars in wages are exempt as against all claims except for necessaries. (Subject to passage of pending legislation—1913.)

Holidays. (See table, page 13.)

Husband and Wife. They may make ante-nuptial agreements which can be in lieu of dower, homestead, and distributive share. (See Arrest, Aliens, Descent of Property, Dower, Divorce, Married Women, and Wills.)

Interest. At the rate of 6 per cent per annum. If any person, upon any contract, receives at a higher rate than 6 per cent, he forfeits three times the excess paid, 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 6 per cent per annum. Interest upon unpaid taxes is at the rate of 10 per cent after the first day of December following their assessment, until sale of property taxed, and 12 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. Judgments are rendered on the last day of the term of the court where the action has been disposed of.

Liens. Besides the common law lien the legislature has provided for a lien upon all the effects and baggage of a boarder; also lien for the pasture of horses, cattle, sheep, or other domestic animals. A person who may have performed labor or furnished material toward building, repairing, fitting or furnishing a vessel shall have a lien thereon for the space of four days after completion. A person who may have furnished a monument or tablet, or curbing, shall have a lien thereon. And a person having a lien on personal property, when no time is limited for the payment of the debt, may sell the same at auction, fourteen days' notice of the sale being required, if the value of the property exceeds $100, and a sworn return of said sale shall be recorded in the office of the town clerk.

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. Action against administrators limited to two years.

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 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. (See Descent of Property.) 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 cannot 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 husband's 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. 1. By entry under process of law into the premises and continued actual possession for one year. 2. By peaceable entry in the presence of two witnesses and continued actual possession for one year. 3. By the mortgagee in possession taking formal possession under the second method. 4. By a sale under the provisions of a power of sale mortgage. 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.

Notes and Bills of Exchange. An instrument to be negotiable must conform to the following requirements: 1. It must be in writing and signed by the maker or drawer. 2. It must contain an unconditional promise or order to pay a sum certain in money. 3. Must be payable on demand, or at a fixed or determinable future time. 4. Must be payable to order or to bearer; and 5, where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty. Its negotiability is not affected by a provision which authorizes the sale of collateral securities in case the instrument be not paid at maturity, or authorizes a confession of judgment if the instrument be not paid at maturity; or waives the benefit of any law intended for the advantage or the protection of the obligor; or gives the holder an election to require something to be done in lieu of payment of money. To charge indorser, notice of non-payment must at once be given to him. Time of Maturity: Every negotiable instrument is payable at the time fixed therein without grace, except sight drafts. When the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day. Instruments falling due or becoming payable on Saturday are to be presented for payment on the next succeeding business day, except that instruments payable on demand may, at the option of the holder, be presented for payment before 12 o'clock, noon, on Saturday, when that entire day is not a holiday. (See Holidays.)

Power of Attorney. (See Conveyances.)

Probate Law. The probate court is a county court, and holds numerous sessions in various places. Proceedings are begun by petition and citation issued. The citations are served twelve days before the return day. The court may proceed without notice in the following cases: In the probate of wills in the common form; in the appointment of an executor nominated in a will; in the appointment of appraisers of an estate; in licensing the sale of real estate under $200 in value, or where the heirs consent in writing; in appointing guardians and commissioners; in granting allowances; in assigning dower and homestead; in making orders for suits upon bonds; in changing names; in appointing trustees nominated in a will. (See Administration of Estates, Courts, Descent of Property, Dower, Married Women, and Wills.)

Protest. Notaries public are the proper protesting officers. Notice of the non-payment or the non-acceptance upon residents by mail is sufficient. (See Notes and Bills.)

Replevin may be brought to recover goods or chattels in specie. The question of right of possession being in issue, the plaintiff shall give bond to the sheriff in a sum not less than double the value of the property to be replevied, to pay such damages as may be awarded against him. If the defendant shall prevail he shall have judgment for the return of the goods, and other damages, or for their value.

Taxes become a lien upon the realty simultaneously with their assessment (April 1st 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 12 per cent per annum being added. A succession or inheritance tax of 5 per cent upon inheritances by collateral heirs, is collected through the probate courts.

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

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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.

SYNOPSIS OF

THE LAWS OF NEW JERSEY

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by JEROME D. GEDNEY, Counselor at Law, East Orange. (See Card in Attorneys' List.)

Acknowledgments of deeds are made within the State before the chancellor or a justice of the supreme court, a master in chancery, attorney at law, judge of the court of common pleas, commissioner of deeds, surrogate of county, or a deputy surrogate, or register of deeds, county clerk, or deputy county clerk during his continuance in office; without the State, before a justice of the supreme court of the United States, circuit or a district judge of the same, or a judge or justice of the supreme or superior court or chancellor of the State, district, or territory, or before any mayor or chief magistrate of any city, borough, or corporation, duly certified under the seal of such city, borough, or corporation, or before a judge of the court of common pleas or county court of such state, district or territory, or commissioner for New Jersey, duly certified, under the official seal of such commissioner, or by a master in chancery, or attorney at law of this State, or by any officer authorized at the time of such proof or acknowledgement, 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, under the laws of such state, district or territory, at the time of taking such acknowledgement, to take acknowledgments and proofs. In foreign countries acknowledgment or proof may be made before a master in chancery, any court of law, notary public, mayor, or chief magistrate, or any ambassador, consul, consular agent, or other representative of the United States; if before foreign officer then the proof or certificate must be accompanied by a certificate under the great seal of such foreign kingdom, etc., that the officer was authorized, under the laws of such kingdom, at the time, to take acknowledgments and proofs of deeds or conveyances of lands, tenements or hereditaments in such kingdom, etc.

Actions. All common law actions are now denominated "action at law"; this, however, does not apply to proceedings upon Prerogative Writs.

Administration of Estates. Wills are proved before the ordinary of the State, or the surrogate of the county, and letters testamentary are granted. In case there is no will, letters of administration are granted. Should there be a contest of the will or dispute as to the right of administration, the orphans' court has power to act. This court is also the proper tribunal for all disputes in matters of estates, is the auditor of all accounts, and has varied powers in matters regarding estates, such as the right to appoint trustees under a will, partition where minors are interested in lands, etc.

Affidavits in the state may be taken before the Chief Justice of the United States or any associate Justice of the Supreme Court of the United States, the Chancellor, a judge of any court of record, master in chancery, attorney at law of New Jersey, justice of the peace, mayor, recorder, or alderman of any city or borough, supreme court commissioner, city clerk, clerk or surrogate of any county, clerk of court of record, notary public or commissioner of deeds.

Aliens. No restrictions as to holding property. Foreign corporations, other than municipal, may purchase, use, and convey real estate in New Jersey. (P. L. 1903, Chapter 22.)

Appeals. From justice's court to court of common pleas of county. From district court to supreme court on question of law or evidence. From common pleas or circuit court to supreme court. From circuit or supreme court to court of errors and appeals. Except in first two or supreme court to court of errors and appeals. From orphans' court to prerogative court. From prerogative court or court of chancery to court of errors and appeals.

Arbitrations may by the submission be made a rule of court, concluding the parties, by the award

Arrests. In civil actions, upon contract, a debtor may be arrested under the following circumstances: 1. When he is about to remove any of his property out of the jurisdiction of the court in which an action is about to be commenced with intent to defraud creditors. 2. When the defendant has property or rights in action which he fraudulently conceals. 3. When he has assigned, removed, or disposed of, or is about to assign, remove, or dispose of, any of his property with intent to defraud creditors. 4. When he fraudulently contracted the debt in question. No capias will issue except by order of court, judge, or court commissioner.

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 Corporation may make assignment for the benefit of its creditors.

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, but the plaintiff or plaintiffs are to be first paid the amounts due him or them before division with other 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 co-partnership, where one of them resides in the State, nor against wages or personal property of non-resident when said property is exempt by laws of the State where debtor resides, at the suit of a non-resident creditor. Garnishment can be effected only in attachment cases. Where capias ad respondendum will issue in an action upon contract, an attachment will lie; awarded by court or a judge thereof, or supreme court commissioner upon affidavit filed as required to obtain capias ad respondendum. Attachment will issue against female, corporation or organization as if such defendant were liable to arrest. (In actions of tort attachment will issue if summons can be served.) (See Arrest.) An action may be commenced by attachment upon proof to court, judge, or court commissioner: 1. That the plaintiff has a cause of action, stating nature and particulars, and that the defendant absconds from his creditors or is not resident and that summons cannot be served. (But no attachment will issue hereunder against the rolling stock of a common carrier of another state or against the goods of a non-resident in transit in the custody of a common carrier of this or another state.) 2. That cause of action survives against heirs or devisees of decedent, and that some of such are unknown or non-resident and there is property of decedent in this State liable to answer the cause of action.

Banks are incorporated under special act. Under certain conditions may purchase, hold, and convey real estate. Have the same general powers and are subject to the restrictions and liabilities contained in the general corporation act, so far as the same are applicable. Every bank shall make at least four reports each year to commissioner of banking and insurance. These reports shall be published in newspaper where bank is located. Individual or private bankers are subject to the supervision and control of the department of banking and insurance. (See P. L. 1899, p. 431.)

Chattel Mortgages. Chattel mortgages to be valid must be acknowledged as deeds and affidavit of the consideration must be made by the mortgagee. They must be recorded. In case household goods are mortgaged, the wife must also join.

Collaterals. As security for loans, regulated by commercial law. Pledges of property to pawnbrokers regulated by statute.

Contracts. The following must be in writing: Leases for a longer term than three years. Assignments, grants, or surrender of leases. Declarations or creations of trust (does not interfere with implied or constructive trusts), grants and assignments of trusts. Special promise of executor or administrator to answer out of his own estate. Special promise to answer for the debt, default, or miscarriage of any other person. To charge any person upon any agreement made upon promise of marriage. Contract or sale of lands, tenements, or hereditaments or any interest in or concerning them. Any agreement not to be performed within one year of the making thereof. Contract for the sale of goods of the value of $500 or upward (acceptance of part of the goods or payment of part of the price obviates necessity of writing); applies to sales for goods to be made as well as such are in existence, unless goods are to be made especially for purchaser and are not suitable for sale to others in ordinary course of seller's business. Promise made after coming of age to pay debt contracted in infancy. Promise of bankrupt to pay after discharge. Commissions to broker or real estate agent, authority to sell must be in writing and rate of commissions stated. In case of debts fraudulently contracted, suit may be brought for recovery as soon as the fraud is discovered, notwithstanding debt may not be due.

Conveyances. Usually bargain and sale or warranty Must be acknowledged to be recorded. (See Married Women.)

Corporations. Corporations are formed under the general act; however, insurance, safe deposit or trust companies, banking corporations, savings banks, railroad companies, or turnpike companies, or such other companies which intend to derive profit from the loan or use of money, or which shall need to possess the right of taking or condemning land, must be incorporated under special act governing such companies. The certificate of incorporation shall be signed personally by all subscribers to the capital stock and set forth: 1. The name of the corporation. 2. The location of its principal office in the State. 3. The object or objects for which the corporation is formed. 4. The amount of the total authorized capital stock of the corporation, which shall not be less than $2,000, the number of shares into which same is divided, and the par value of each share. The amount of capital stock with which it shall commence business to be not less than $1,000, which may be paid either in cash or property, and if there be more than one class of stock created by the certificate of incorporation, a description of the different classes with the terms on which the respective classes of stock are created. 5. The names and post-office address of incorporators and the number of shares subscribed for by each, the aggrevate of which shall be the amount of capital stock with which the company will commence business, and shall be at least $1,000. 6. The period, if any, limited for the duration of the company. 7. The certificate of incorporation may also contain any provision as to the regulation of the business and conduct of the affairs of the corporation, and any provision creating, defining, limiting, and regulating powers of the corporation, the directors and the stockholders, or any class of stockholders, provided such provision be not inconsistent with the act concerning corporations. Every certificate and report must give address of New Jersey office and name of agent in charge thereof, upon whom process against the corporation may be served. Directors shall be stockholders, and shall be chosen annually by the stockholders. They must be three in number, at least. The officers are chosen annually; president must be a director. One director must be a resident of the State of New Jersey. Corporation may determine the manner of calling and conducting all meetings, and what number of shares shall constitute a quorum. (P. L. 1901, p. 260.) When corporation is insolvent, remedy is by bill in chancery, the application for and appointment of receiver of such insolvent company. Laborers and workmen have first lien upon assets to a limited amount. Liability of the stockholder ceases when shares are fully paid for, or in other words, a stockholder is only liable to the amount of his unpaid subscription to the capital stock. Foreign corporations

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are subject to the provisions of the general corporation act in so far as the same are applicable; the provisions of which having been complied with, there is issued by the secretary of state to such foreign corporations a certificate that it is authorized to transact business in this state. It is unlawful for a foreign corporation to transact business in this State until such certificate is obtained. Foreign corporations, other than municipal, may purchase, use, and convey real estate in New Jersey. Associations not for pecuniary profit may incorporate under special law providing for such incorporation. A copy of the corporation law of the State, with full forms and instructions for incorporating, is sent without expense by the secretary of state, Trenton, N. J., upon application. A copy of the corporation act may be had free upon application to New Jersey Registration and Trust Company, 525 Main Street, East Orange, N. J.

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. District court jurisdiction, co-extensive with county, in amounts $500 or under; justices' court jurisdiction co-extensive with county, in amount $200 or less. In cities where district courts are established and defendant or justice of the peace reside within the limits of said city the justices' court has no civil jurisdiction whatever. (See district court revision P. L. 1898.) The court of errors and appeals has no original jurisdiction but hears appeals from court of chancery prerogative court supreme court and circuit courts."

Days of Grace. Abolished since July 4, 1895, unless stipulated to the contrary.

Depositions of material witness residing in the State, who is ancient, or very infirm, sick, about to go out of the State, or absent from the State, may be taken de bene esse before a justice 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 Jeffery's Law Precedents, p. 260, et seq., and Dickinson's Chancery Precedents, p. 217, et seq., for forms and instructions.)

Descent and Distribution. Descent: 1. To children and grandchildren, and so on, that is, lineally, ad infinitum. 2. In default of class 1, to brothers and sisters of the whole blood, and their issue. 3. In default of classes 1 and 2, to the father, unless the inheritance came from the mother by descent, devise, or gift. 4. In default of classes 1, 2, and 3, to the mother for life. 5. In default of the former classes, to the brothers and sisters of the half blood and children of such, provided the inheritance came from the common blood or by purchase. 6. In default of all of these to the persons of equal degrees of consanguinity. 7. In default of all above classes to the husband or wife, if any, in fee simple. Escheat to State after all above claims are exhausted. Distribution: 1. One-third to the husband or widow, residue to children and legal representatives of children. 2. If no children or legal representatives whole of estate to husband or widow. 3. If no husband or widow all to children, and if no child, nor representative of child equally among parents and brothers and sisters, except where intestate a minor then all to parents of living, if not living, then to brothers and sisters equally. 4. If no husband or widow, child, legal representative of child, nor parent, brother or sister, then all to next of kin in equal degree.

Dower. Widow entitled to one-third for life of all the lands of which her husband was seized during coverture, for which she has given no relinquishment or release by deed, properly executed and acknowledged. (See Descent and Distribution.)

Executions issue immediately upon a rendition of judgment, and are returnable either in term or vacation. An execution and levy upon a junior judgment takes priority over a former judgment under which no execution and levy has been made. 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 justices 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, and this only case of judgment by confession and defendant giving good and sufficient freehold security. There is no redemption after sale in any case. Where an execution has been returned unsatisfied, the court out of which it was 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. Court may make order forbidding debtor from receiving or transferring property where it is shown he has property or rights in action. Order may also be made against third person owing debtor or having his property in control, custody, or possession. Arrest on a capias can only be had in case of fraud or attempted removal or disposal of property with intent to defraud creditors. Creditor may proceed upon unsatisfied judgment at law by bill in chancery; court has power to compel discovery, examine debtor, and to preserve and make disposition of property.

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 of family of a deceased person may claim the same exemption of $200 as against the creditors. Family of absconding debtor may claim exemption of $200 as above.

Frauds. (See Contracts.)

Garnishment. (See Attachment.)

Holidays. Legal holidays are: January 1st, commonly called New Year's Day; February 12th, called Lincoln's Birthday; February 22d, known as Washington's Birthday; Good Friday; May 30th, known as Decoration Day; July 4th, called Independence day; first Monday of September, known as Labor Day; October 12th, known as "Columbus Day;" December 25th, known as Christmas Day; Thanksgiving Day, and any general election day. If any of these days happen on Sunday the holiday is kept Monday. Every Saturday from 12 o'clock at noon to 12 o'clock at midnight is a half-holiday.

Husband and Wife. (See Married Women.)

Inheritance Taxes—Transfer Taxes. Property in excess of $5,000 passing to father, mother, brother, sister, wife of son, widow of son, husband of daughter is taxed at the rate of 2 per cent up to $50,000; 2½ per cent between $50,000 and $150,000, etc.; passing to a husband, wife, child at the rate of 1 per cent up to $50,000; 1½ per cent between $50,000 and $150,000, etc. All others, except churches, hospitals, charitable institutions and the like, organized under the laws of and operating solely within this state, are liable to a 5 per cent tax on amounts of $500 or more.

All taxes imposed by the act are due and payable upon death of the person from whom the property passes or is transferred. If paid within one year a discount of 5 per cent is allowed, and if not paid within one year interest at rate of 10 per cent per annum is added. (See P. L. 1914 Chap. 151.)

Interest. Legal interest on debts and judgments, 6 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. No corporation can make defense of usury.

Judgments become a lien on lands from time of actual entry, and so remain for twenty years. Where there are several judgments, that under which the first levy is made takes priority. Judgments recovered or docketed in the supreme court are a lien on all lands of defendant within the State. Judgments recovered before a justice of the peace may be docketed in common pleas, so as to be a lien upon lands. Decrees in chancery may be enrolled in supreme court; when so recorded, have effect of judgment recovered therein.

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 cannot become an accommodation indorser, guarantor, or surety, except under certain conditions. (See P. L. 1895, p. 821.) She cannot 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 cannot 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. A married woman who is an executrix or trustee may convey lands of testator without husband joining. A married woman may execute a valid conveyance of life estate. (See Dower.) A married woman may sue, or be sued, without joining her husband, in any case in which he would be an unnecessary party if not her husband.

Mortgages. Unless to secure purchase money, wife must join. A married woman cannot execute any mortgage without husband. Foreclosure is by action in equity. Chattel mortgages are absolutely void as against creditors and subsequent bona fide purchasers and mortgagees, unless the mortgage is acknowledged or proved according to law and recorded, or unless the mortgage is accompanied by immediate delivery and followed by continued change of possession of mortgaged property. Foreclosure of chattel mortgages is usually effected by seizure and sale, although may be foreclosed in equity. 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, or his agent or attorney. 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.

Negotiable Instruments. Regulated by an act entitled, "A General Act relating to negotiable instruments (being an act to establish a law uniform with the laws of other states on that subject)," was this year adopted. The act is quite identical with that passed in New York, Massachusetts, Connecticut, Rhode Island, Pennsylvania, Maryland, Virginia, North Carolina, Tennessee, Florida, Wisconsin, North Dakota, Colorado, Utah, Oregon, and Washington.

Powers of Attorney for sale of land in which married woman joins, must contain a full and particular description of the lands, tenements, or hereditaments authorized to be conveyed.

Probate Law. (See Administration of Estates and Wills.)

Replevin requires bond from party issuing the writ. Officer holds for twenty-four hours, during which defendant may give bond and retain the goods, when the case proceeds. In the same suit damages may be recovered. If no bond is given, goods are delivered to plaintiff.

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 cannot be made on officers or agents, directors, clerks or engineers.

Taxes are and remain paramount liens, except as to taxes subsequently assessed, from and after December 20th following assessment. Taxes due and in arrear September 1st next after assessment may be collected by sale of land. Right of redemption extends two years from sale.

Transfer of Corporation Stocks. Shares of stock are personal property, transferable on books, but cannot be voted on if transferred twenty days before election. Subject to attachment and levy of execution.

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, who shall at his request sign their names as such in the presence of the testator and of each other. 4. That it shall be declared to be his last will in the presence of these witnesses. Sealing is customary

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SYNOPSIS OF

THE LAWS OF NEW MEXICO

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised from 1915 Codification by J. BENSON NEWELL, Attorney at Law, Albuquerque. (See Card in Attorneys' List.)

Acknowledgments. (See Conveyances.)

Actions. The practice in this State is the code modified by rules of court. All civil actions in district courts are brought as follows: All transitory actions shall be brought in the county where either the plaintiff, or defendant, or some one of them, resides, or in the county where the contract sued on was made, or is to be performed, or where the cause of action originated, or indebtedness sued on was incurred; or in any county in which the defendant, or either of them, may be found, in the judicial district where the defendant resides. When the defendant has rendered himself liable to a civil action by any criminal act, suit may be instituted against such defendant in the county in which the offense was committed, or in which the defendant may be found, or in the county where the plaintiff resides. When suit is brought for the recovery of personal property, other than money, it may be brought as herein stated, in the county where the property may be found. When lands, or any interest in lands, are the object of any suit, in whole or in part, such suit shall be brought in the county where the land, or any portion thereof, is situated. Suits for trespass on land shall be brought as provided for in transitory actions, or in the county where the land, or any portion thereof, is situated. Suits may be brought against transient persons or non-residents in any county of this State.

Administration of Estates. Letters of administration are granted in the county in which the mansion, house, or place of abode of the deceased is situated, or in the county in which lands of the decedent are located, and in the absence of all these, in the county where the deceased died. Letters are granted, first, to the husband or wife surviving; secondly, if there be no husband or wife surviving, to those who are entitled to distribution of the estate, or one or more of them, as the probate judge shall believe will best manage the estate; thirdly, to any creditor thirty days after the death; fourthly, probate judge may select a suitable person. The probate court has exclusive jurisdiction, and from all its acts an appeal lies to the district court. (See Claims Against Estates.)

Affidavits. Affidavits to be used in court may be taken before any person authorized to take acknowledgments.

Aliens. By statute of the State foreigners have the same right to own and dispose of real estate that citizens of this country enjoy, and property descends to their heirs and is controlled by their executors and administrators in precisely the same way.

Arbitration. All litigants shall have the right to terminate their suits, in whatever condition they may be, by means of arbitrators. The arbitrators shall enter into an agreement (the form of which is provided by statute) to submit their differences to arbitration, and the arbitrators shall receive proofs and hear arguments of counsel, and render sentence as the majority of the arbitrators may decide, and any of the courts will enforce the decision of the arbitrators by issuing execution thereon.

Assignments. Insolvent debtors may make assignments for the benefit of their creditors. No preferences are allowed, but the assignment inures to the benefit of creditors generally, pro rata. The court may upon proper application compel the assignee to surrender the property to a receiver to be appointed by the court. The claims of creditors to be verified by the oath of the creditor, his agent, or attorney. Assignee is required to settle up the estate within twelve months.

Attachment. Creditors may sue their debtors in the district court, by attachment in the following cases, to-wit: 1. When the debtor is not a resident of nor resides in the State. 2. When the debtor has concealed himself or absconded, or absented himself from his usual place of abode in this State, so that the ordinary process of law can not be passed upon him. 3. When the debtor is about to move his property or effects out of this State, or has fraudulently concealed or disposed of his property or effects, so as to defraud, hinder, or delay his creditors. 4. When the debtor is about to fraudulently convey or assign, conceal, or dispose of his property or effects, so as to hinder, delay or defraud his creditors. 5. When the debt was contracted out of this State, and the debtor has absconded or secretly removed his property or effects into the State with intent to hinder, delay or defraud his creditors. 6. When defendant is a corporation whose principal office or place of business is out of this State, unless such corporation shall have a designated agent in the State, upon whom service of process may be made in suits against the corporation. 7. When the defendant fraudulently contracted the debt, or incurred the obligation, respecting which the suit is brought, or obtained credit from the plaintiff by false pretenses. An attachment may issue upon a demand not yet due, in any case where an attachment is authorized, in the same manner as upon demands already due. The attaching creditor must file with the clerk of the court a bond with two or more sureties in double the amount of the claim, and an affidavit sworn to by plaintiff or some person for him, setting out the amount of the claim, that it is due after allowing all just creditors and offsets, and on what account; and that affiant has good reason to believe, and does believe, in one or more of the causes for attachment hereinbefore set forth. Any person having property or effects of defendant in his hands may be garnisheed. The attachment may be dissolved by denying and successfully contesting the truth of the ground of attachment specified in the affidavit, and theo the suit proceeds as an ordinary action.

Banks. By an act of legislative assembly any number of persons not less than three, may associate to establish a bank; the capital stock shall not be less than $30,000, of which, at least, 50 per cent shall be paid in at once and before transacting any business, and the remainder be paid within a year; statements shall be sent to the traveling auditor of the condition of the bank on the first Monday in January and July, and be published at least once a week for three successive weeks in a newspaper of the county. The officers and stockholders of every bank formed under the provisions of the act shall be individually liable for all debts contracted during the term of their being officers or stockholders of such corporation, equally and ratably, to the extent of their respective shares, except that when any stockholder shall sell and transfer his stock, such liability shall cease at the expiration of one year from the date of such transfer. It is also provided, however, that the stockholders, collectively of any bank, shall at no time be liable to such bank, either as principal debtors, or sureties, or both, to an amount greater than two-fifths of the amount of the capital stock actually paid in and remaining undiminished by losses or otherwise.

Bills of Exchange. All bills of exchange shall be due and payable as therein expressed, and shall have the same effect and be negotiable in like manner and shall have days of grace according to the custom of merchants. Damage for non-acceptance or non-payment by persons outside the United States 12 per cent upon the principal specified in the bill, with interest on the same from the time of the protest; if drawn upon a person at a place in any of the United States, or territories thereof, 6 per cent with interest. (See Bills and Notes.)

Bills and Notes are assignable as at common law, and the assignee thereof can bring suit in his own name. On a joint and several note, any one of the makers may be sued. Indorsers are subject to the same liabilities as at common law. Interest is limited by statute to 12 per cent per annum. Days of grace are allowed. Commercial paper falling due on Sunday or any legal holiday is, under statute, payable on the next business day thereafter.

Chattel Mortgages. Chattel mortgages and all instruments of like effect must be acknowledged and recorded as deeds. In the absence of stipulation to the contrary mortgagor has right of possession. Every mortgage so filed for record is void as against creditors, subsequent purchasers and mortgagees, after the expiration of one year from the filing thereof, unless within the thirty days next preceding the expiration of one year from said filing, and each year thereafter, said mortgage be continued by affidavit of mortgagee, his agent or attorney, filed with mortgagee, showing interest of mortgage and amount still due.

Claims Against Estates. Claims must be properly entitled in the name of the claimant against the executor or administrator of the estate, and must be filed within one year from the appointment of the executor or administrator or they will be barred. The probate judge hears and determines claims against the decedent's estate. All claims filed and not expressly admitted in writing by the executor or administrator shall be considered as denied. Claimants may appeal from the probate court to the district court, which appeal must be taken within 90 days from the decision of the probate court, and within eighteen months after the appointment of the executor or administrator. Claims have preference as follows: 1. Expenses of administration. 2. Expenses of funeral and last sickness. 3. Allowance for maintenance of widow and children. 4. Claims preferred by the express provision of the United States or State laws. 5. Taxes. 6. All other debts. 7. Legacies. A claim against an estate on account of matters occurring during the lifetime of the deceased cannot be allowed on the uncorroborated evidence of the claimant.

Conveyances. All conveyances of real estate shall be subscribed by the person transferring his title or interest in said real estate, or by his legal agent or attorney. Every instrument in writing by which real estate is transferred or affected, in law or equity, shall be acknowledged and certified to in the manner hereinafter prescribed. The acknowledgment of all conveyances or writing affecting any real estate, in law or equity, shall be taken before any of the following named officers: If the acknowledgment is made within the State it shall be made before any (1) clerk of the district court, (2) judge of probate court using probate seal, (3) notary public, (who has power and authority to administer oaths anywhere in the State), (4) justice of the peace. If taken without the State and within the United States, the acknowledgment to be taken (1) before a clerk of some court of record having a seal, (2) a commissioner of deeds duly appointed under the laws of this State (3) a notary having a seal. If acknowledged beyond the limit of the United States, it shall be done before any (1) minister, commissioner, or chargé d'affaires of the United States resident and accredited in the country where the acknowledgment is made, (2) consul general, consul, vice-consul, deputy consul, consular agent of the United States, resident in the country where the acknowledgment is made, having a seal, (3) a notary public having a seal. Husband or wife may convey their separate estate without consent of the other and husband has sole management and disposal of community property. No seal or scroll necessary to the validity of conveyances except by corporations.

Corporations. A Corporation Commission is in vogue now similar to other states. Any three or more persons may form a corporation for mining, manufacturing, or other industrial pursuits, or the construction and operation of railroads, wagon roads, irrigating ditches, and the colonization and improvement of lands in connection therewith; or for colleges, seminaries, churches, libraries, or any benevolent, charitable or scientific association. To do so they must make, sign, and acknowledge—before some officer competent to take the acknowledgment of deeds—a statement in writing (for the filing of which the State is entitled to graduated fees), setting forth the full names of such persons; the corporate name of the company; the objects for which it is formed; the amount of its capital stock; the time of its existence, not exceeding fifty years; the number of shares into which the capital stock is divided; the number of directors and their names, who shall manage the affairs of the company for the first three months, and the name of the city, or town and county in which the principal place of business of the company is located; the amount of the capital stock with which it will commence business, which shall not be less than $2,000, and if there be more than one class or stock created by the certificate of incorporation, a description of the different classes, with the terms on which the respective classes of stock are created; the names and post-office addresses of the incorporators and the number of shares subscribed by each, and shall also give the name of the agent in charge of the principal office upon whom process can be served. There shall be at least three directors in each company, and a majority of them citizens of the United States, and at least one a resident of the State. And after the expiration of the term of those first selected (three months), they shall be selected annually by the stockholders from among their number. A majority of the whole number of directors form a quorum for the transaction of the business. When the certificate has been filed the life of the corporation begins, with all the usual liabilities and powers. The stock of the corporation is personal estate. There is no personal liabilities upon stockholders if stock is paid up, except where debts are incurred in excess of the cap-

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ital stock. The stock of a stockholder may be taken on attachment or execution. The capital stock may be increased or diminished by a vote of two-thirds of the shares of stock at a meeting of the stockholders, called for that purpose, upon four weeks' notice, signed by a majority of the directors. Foreign corporations, or those organized under the laws of other states and territories, may do business in this State by filing with the secretary and probate clerk of county in which the principal place of its business shall be a copy of the laws under which they are chartered, and a certified copy of their charter, and also a certificate signed by the president and secretary of such company, duly acknowledged, designating the principal place where the business of said company shall be carried on, and an authorized agent or agents residing at said principal place of business upon whom process may be served. Railroad corporations come under a separate head with peculiar privileges and restrictions.

Costs. Security for costs or a deposit of money in lieu thereof is required of plaintiffs, in the discretion of the court.

Courts. 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. District courts are at all times in session for the transaction of all business except jury trials.

Days of Grace. (See Bills and Notes.)

Depositions. Depositions of witnesses to be used in any court in this State in all civil cases,, and proceedings may be taken in the following cases: 1. When by reason of age, infirmity, sickness or official duty it is probable that the witness will be unable to attend the court. 2. When the witness resides without the State, or the county in which the suit is pending. 3. When the witness has left or is about to leave the State or county in which the suit is pending, and will probably not be present at the trial. Depositions may be taken on interrogatories and cross-interrogatories attached to a commission to be issued by the clerk of the court or justice of the peace, and may be taken within the State by a district judge, clerk of district court, clerk of probate court or any notary public of the county where taken. They may be taken without the State by any clerk of a court of record having a seal, by a notary public or a commissioner of deeds duly appointed under the laws of this State, and residing within the state or territory within which the witness is alleged to be or resides. The officer to whom the commission is addressed is authorized to issue subpœnas for witnesses, and upon their appearance, and take and reduce to writing their answers to the interrogatories, which shall be signed to and sworn by the witnesses. The officer shall certify that the answers were signed and sworn to by the witness before him and shall seal them up in an envelope together with the commission and interrogatories, and shall write his name across the seal, and shall direct the package to the clerk of the court or justice of the peace issuing the commission. If sent by mail the postmaster mailing the same shall indorse thereon that he received them from the officer taking the same, and sign his name. In every case the officer taking the deposition shall certify that he knows the witness to be the person such witness purports to be, but if such witness is not personally known to the officer he shall then require the witness to be identified by at least two responsible persons well known to the officer, and he shall certify to the fact of identification of the witness.

Dower. All property owned by any woman at the time of her marriage, continues to be her separate property, and she may receive and hold property during coverture free from liabilities on account of her husband's debt, except for necessaries of life. There is no dower in the State but a married woman is entitled to one-half of all the property acquired by the husband and wife during coverture, first, however, deducting all indebtedness.

Executions. Executions may issue at any time within seven years, provided first execution is taken out within five years after rendition of judgment, and to any county in the State. From district courts are returnable in sixty days from delivery to sheriff, and from justices' courts within 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 10 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. Sales under execution must be advertised four weeks prior to day of sale, in some newspaper.

Exemptions. Real estate to the value of $1,000 shall be exempt from execution in favor of heads of families actually residing on the same, provided the exemption be claimed. But if in the opinion of the creditors the premises claimed as exempt are worth more than $1,000, it shall be lawful for the officer to advertise and sell the premises, and out of the proceeds of such sale pay to the execution debtor $1,000, and apply the balance to payment of execution, provided that no sale can be made unless more than $1,000 be bid for the premises. Also the clothing, beds, and bed-clothing necessary for the use of the family; and firewood sufficient for sixty days, when actually provided and intended therefor. All Bibles, hymn-books, testaments, school books used by the family, and family and religious pictures. Provisions actually provided, to the amount of $50, and kitchen furniture and household furniture not exceeding $200 in value both to be selected by the debtor. Also household goods of the additional value of $75.00 in lieu of certain domestic animals. Also al tools and implements belonging to the debtor that may be necessary to enable him to carry on his trade or business, whether agricultural or mechanical, to be selected by him, and not to exceed $150 in value. Real estate when sold under execution must be first appraised by two freeholders of the vicinity, and must bring two-thirds of the appraised value. Unmarried men have no exemptions. Any resident of the State owning no homestead may select other property, not exceeding $500 in value in lieu thereof.

Foreign Corporations. (See Corporations.)

Foreign Judgments. Action founded upon any judgment of any court of record of any other state or territory of the United States, or of the federal courts may be brought within seven years from and after the rendition of such judgments, and not afterwards.

Fraud. Fraudulent conveyances, or conveyances made with the design to prefer one or more creditors in preference to others, and, when the debtor is insolvent, may be set aside upon application by a bill in equity. (See Assignments.)

Garnishment. All persons and corporations are subject to garnishment for moneys of a debtor in their hands, and a failure of the garnishee to appear and answer, subjects the garnishee to a proceeding for contempt. (See Attachments.)

Holidays. Sundays, Christmas, New Years, Fourth of July, October 12th, Columbus Day, and such other days as may be designated by the government as holidays.

Homesteads. (See Exemptions.)

Husband and Wife. (See Dower.)

Insolvent Laws. (See Assignments.)

Interest and Usury. Six per cent interest is the legal rate of interest in absence of contract, but parties may agree in writing for any rate of interest not exceeding 12 per cent. Open accounts bear interest at 6 per cent from six months after the date of last item in the account. Judgments bear the same interest as contract sued on, and in the absence of any specified rate, 6 per cent.

Judgments. Money judgments of the district court for the counties of Santa Fe, San Miguel, Bernalillo, Socorro, and Dona Ana, are liens on real estate of the judgment debtor from the date of rendition, if within sixty days after rendition of such judgment a transcript of the docket of such judgment be filed in the office of the recorder of the county in which such real estate is situated. A like judgment of the district courts of all other counties of the State and of the supreme court of New Mexico becomes a lien upon the real estate of the judgment debtor from the date of the filing of a transcript of the docket of such judgment in the office of the recorder of the county in which the real estate is situated.

Jurisdiction. Justice courts have jurisdiction to the amount of $200. District courts have unlimited original jurisdiction. Probate courts hold six terms annually, and have ordinary probate jurisdiction. District courts in certain counties also sit for the trial and hearing of causes arising under the constitution and laws of the United States. Such suits are now usually instituted in the United States District Court for New Mexico. District courts and probate courts are courts of record.

Liens. Every person performing labor upon, or furnishing materials to be used in the construction, alteration, or repair of buildings, etc., has a lien upon the same for the work done, or for the materials furnished, but every original contractor claiming the benefit of the lien law must, within ninety days after the completion of any building, etc., file with the county recorder a claim showing the amount of his demand remaining due him, name of the person by whom he was employed, and a general statement of his contract; also a description of the property to be charged with the lien, which claim must be verified by the oath of the party or his agent. Sub-contractors have sixty days in which to file liens. Landlords, innkeepers, and common carriers have the usual lien on property and baggage of tenants, guests, and shippers. (See Judgments.)

Limitations. Ten years' adverse possession of land under color of title, having paid taxes on the same for such period, bars all actions. Infants, femme covert, persons of unsound mind, imprisoned, or beyond the limits of the United States, excepted, and have one year after removal of disability in which to bring action. All other actions must be brought as follows: Upon judgments of courts of record, 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.

Married Women. (See Dower.) May sue and be used as femme sole.

Mechanics' Liens. (See Liens.)

Mortgages of Personal Property. (See Real Estate and Chattel Mortgages.)

Mortgages of Real Property. There is no statute relating to mortgages on real estate, except that they must be executed and recorded in the same manner as deeds. Mortgages of chattels are provided for in the statute, and may be given on all kinds of personal property, except growing crops. 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 after the filing thereof; unless within thirty days next preceding the expiration of the term of one year from such filing, and each year thereafter the mortgagee, his agent, his attorney, shall make an affidavit exhibiting the interest of the mortgagee in the property at the time last aforesaid, claimed by virtue of said mortgage, and if said mortgage is to secure the payment of money, the amount yet due and unpaid; such affidavit shall be attached to and filed with the instrument or copy on file, to which it related. In the absence of a stipulation to the contrary, the mortgagor of personal property has the right to the possession thereof. After condition broken the mortgagee or his assignee may, where the amount of the debt does not exceed $300, proceed to sell the mortgaged property, or so much thereof as shall be necessary to satisfy the mortgage and cost of sale, having first given notice of the time and place of sale, by written or printed hand-bills posted up in at least six public places in the precinct in which the property is to be sold, at least for four weeks preceding the day of sale. If the mortgagee or his assignee shall have obtained possession of the mortgaged property, either before or after condition broken, the mortgagor or any subsequent mortgagee may demand in writing a sale of such property, having first given notice as provided for above. If after satisfying the mortgage and costs of sale there shall be any surplus remaining, the same shall be paid to any subsequent mortgagee entitled thereto, or to the mortgagor or his assignee. The husband may mortgage his separate estate without the consent or signature of his wife. (See Conveyances.)

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

Partnerships, Limited. Limited partnerships may be formed by two or more persons for the transaction of any mercantile, mechanical, manufacturing, or other business, except banking or insurance. Such partnerships may be general or special. Dissolution of all partnerships must be published in newspapers of general circulation. Legal rate for publication 30 cents per 100 ems for first insertion, 20 cents per 100 ems for each subsequent insertion.

Probate Law. (See Claims Against Estates, Descent and Distribution, Executions, and Administration of Estates.)

Protest. Any notary public may make protest of bills of exchange, acceptances, promissory notes, etc., for non-payment. The certificate of a notary, under his official seal, as to presentment, demand, non-payment, or non-acceptance, and notices to parties, shall be prima facie evidence of the facts certified to. Fees for protest and certificate thereof $2.00; 25 cents additional for each notice.

Records. (See Conveyances.)

Redemption. Real estate sold under execution may be redeemed by the execution debtor within one year, by paying to the purchaser the purchase money with interest thereon at 12 per cent. Real estate sold for taxes may be redeemed within three years, but the debtor shall pay interest at one per cent per month on the purchase money. The purchaser under execution is entitled to the growing crops, and the rents and profits. When property is sold under a foreclosure proceeding the mortgagor has nine months within which to redeem same by paying the amount of the debt and costs, with 12 per cent interest.

Replevin. Any person entitled to the immediate possession of personal property may have a writ of replevin for the same, upon filing an affidavit that he is entitled to the immediate possession of the property, that the same was wrongfully taken or is wrongfully detained by the defendant, and that the plaintiff's right of action accrued within one year. Before the writ is served, plaintiff must give bond to the officer conditioned to hold him harmless, make return of the property, if a return be adjudged and pay all costs that may be adjudged against him, the affidavit to be made and bond executed by the plaintiff, or some responsible person for him. If the plaintiff fail in his action, or to prosecute the same, defendant is entitled to a return of the property, or its value at his option, and to double damages for the detention of the property. No cross replevin allowed.

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Taxation. Taxes have the force and effect of a judgment against the person assessed and constitute a lien upon real and personal property. Taxes become delinquent, one-half the first day of December of the year for which the same was levied, and the other half the first of June following, and such taxes shall, from respective dates of delinquency, bear interest at rate of one per cent per month, until paid. Notice of tax sale of duplicate certificate shall be mailed to owner or agent of land, if known. After sale certificates draw interest at the rate of 1½ per cent per month. Real estate sold for taxes may be redeemed within three years. Exemption to amount of $200 allowed to head of family residing in State. (See exemptions.) Irrigation, reservoir, and railroad companies exempt under certain conditions for a term of years.

Wills. Any person of the age of twenty-one years or upwards, and in sound mind, may dispose by will of all his property, except what is sufficient to pay his debts. Two or more witnesses shall be sufficient. The witnesses to a written will must be present, see the testator sign the will, or some one sign it for him at his request as and for his last will and testament, and must sign as witnesses at his request, in his presence and in the presence of each other. Any will executed in any foreign jurisdiction sufficient to convey the title or real estate in such jurisdiction, shall be valid in this State to the same extent as in the jurisdiction where made. All written wills are irrevocable, except by specially mentioning it in a subsequent will and declaring that he thereby revokes the same or by a subsequent valid will disposing of the same property. The probate judges have power to qualify and approve wills after hearing the evidence of the witnesses who attest the will, and any other facts connected with the execution of it. If the probate judge finds everything to be legal and proper he approves the will, but if not, then he returns it to the party applying for its approval, with his reasons for failing to approve the same. The person to whom it is returned may present the same to the district court at the next regular term held in the county, for its approval or disapproval which is final.

SYNOPSIS OF

THE LAWS OF NEW YORK

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by GEORGE J. HATT, 2D, Attorney at Law, Albany. (See Card in Attorneys' List.)

Acknowledgments must be made within the State, before a justice of the supreme court; or within the district wherein such officer is authorized to perform official duties, before a judge, clerk, deputy clerk, special deputy clerk of a court, a notary public, or the mayor, a recorder of a city, a justice of the peace, surrogate, special surrogate, special county judge, 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, or any officer of such state or territory authorized by its laws to take acknowledgments, or proofs or deeds to be recorded therein. 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." Provision is made by law for acknowledgments and proofs in foreign countries; also Cuba, Porto Rico, and Philippines.

The acknowledgment by an individual is in the following form:

"State of New York, }
County of..... } ss:
City of..... }

On this.....day of....., in the year one thousand nine hundred and....., before me, the subscriber, personally appeared....., to me personally known to be the same person described in and who executed the foregoing instrument, and he.....acknowledged to me that he executed the same."

The acknowledgment by a corporation is as follows:

"State of New York, }
County of..... } ss:

On the.....day of....., in the year....., before me personally came....., to me known, who, being by me duly sworn, did depose and say that he resides in.....; that he is the (president or other officer) of the (name of corporation); the corporation described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation, and that he signed his name thereto by like order.

(Signature and office of officer taking acknowledgment.)"

Administration of Estates. The administration of estates is committed to surrogate's courts. In cases of intestacy, letters of administration are to be granted to the relatives of the deceased entitled to succeed to the personal property of decedent, who will accept the same in the following order: 1. To the surviving husband or wife. 2. To the children. 3. To the grandchildren. 4. To the father. 5. To the mother. 6. To the brothers. 7. To the sisters. 8. To any other next of kin, entitled to share in the distribution of the estate. If no person entitled to take or share in the estate will accept administration shall be granted (a) To the public administrator. (b) To the County Treasurer, or to the petitioner in the Surrogate's discretion. (c) To any other person.

Affidavits may be taken by any officer authorized to administer oaths including commissioners of deeds and notaries public, the latter also in counties other than for which they are appointed, upon their filing certificates in such county.

Arbitration may be resorted to, upon disputed questions, the practice being regulated by the code of civil procedure. (Chap. 17 tit. 8.)

Assignments and Insolvency. Statutory provision exists, regulating the making of general assignments in trust, for the benefit of creditors. (Laws 1909, Chap. 17, Art. II), (as amended by Chap. 360, Laws 1914.) Wages or salaries of employes, for services rendered within three months prior to the assignment are preferred over all other debts; the debtor may create other preferences to the amount of one-third in value of the assigned estate left after deducting such wages or salaries and the costs and expenses of executing the trust. 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 do not discharge or satisfy the whole indebtedness of the assignor.

Statutory provision also exists for a resident insolvent debtor to be discharged from his debts upon his written petition and the written consent of unsecured creditors whose claims amount to not less than two-thirds of all the debts owing by the petitioner to creditors residing within the United States. (Laws of 1909, Chap. 17, Art. III). This proceeding is rarely resorted to.

Attachments may issue in actions to recover a sum of money only as damages for breach of contract, wrongful conversion of personal property, or injury to person or property in consequence of negligence or fraud, where the defendant is either a foreign corporation, or non-resident, or has left the State, or conceals himself to avoid service, or has removed from the State, or sold, assigned, secreted, or is about to remove, sell, assign, or secrete his property with intent to defraud creditors, or where, for the purpose of procuring credit or an extension of credit, a false statement was made in writing, under the hand and signature of the defendant, or a duly authorized agent, made with his knowledge and acquiescence, as to his financial responsibility or standing, or where the defendant, being an adult, has been continuously without the State of New York for more than six months and has not made a designation of a person upon whom to serve a summons in his behalf.

Banks. The constitution prohibits the legislature from passing any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws.

On April 16, 1914, the new banking act became a law. This act repeals virtually all previous laws on this subject and covers the entire banking field.

The most important change made by this act is in regard to every private banker engaged in the business of private banking in any city of the state.

1. Who makes use of any office sign bearing thereon the word "bank", "banker", "banking," or any derivative or compound of the word "bank," or any words in a foreign language having the same or similar meanings, or who makes use of any exterior sign bearing thereon any such word or words or any words whatever to indicate to the general public that such person is engaged in the business of a private banker; or

2. Who pays or credits interest, or pays, credits or gives any bonus or gratuity or anything of value, except on certificates of deposit actually outstanding at the time this act takes effect, to any depositor on a deposit balance of (a) less than $500, if such private banker is engaged in business in a city of the first class, or (b) less than $300, if such private banker is engaged in business in a city of the second class, or (c) less than $200, if such private banker is engaged in business in a city of the third class; or

3. Who receives money on deposit for safekeeping or for transmission to others or for any other purpose in such sums that the average of the separate deposits so received by such private banker since April 1st, 1914, or during any twelve successive months, or for such period, if less than twelve months, that such private banker has been engaged in such business, exclusive of dividend checks, coupons or other small collection items collected by such private banker for customers in the ordinary course of business, is (a) less than $500, if such private banker is engaged in such business in a city of the first class having a population of over 1,000,000, or (b) less than $300, if engaged in business in any other city of the first class, or (c) less than $200, if engaged in business in any city of the second class, or (d) less than $100, if engaged in such business in any city of the third class.

The following are some of the more important subjects under this article: Verified certificate to be submitted by private banker to department; Conditions precedent to transacting business; Rights of private banker under authorization certificate; Permanent capital, increase or decrease; Segregation of investments of capital and deposits, how title to be taken; Depositors preferred in case of insolvency; Annual report of unclaimed deposits; Deposit of securities with the superintendent of banking; Investment of permanent capital and deposits; reserves against deposits, etc.

Five or more persons may form a corporation to be known as a bank. In a village whose population does not exceed 2,000, a capital of $25,000 is required; where the population exceeds 2,000, but does not exceed 30,000, $50,000 is the capital required, and not less than $100,000 elsewhere.

Provision is made for circulation and a deposit for security therefor. Stockholders of all banking corporations are liable to the extent of the amount of their stock at par, in addition to the amount invested in such shares, for all debts and liabilities; 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 date designated by him by all private bankers, trust companies and banks of discount: Savings Banks are required to report on or before February 1st and August 1st of each year which report shall state its condition on the morning of January 1st and July 1st in said year. He is also given authority to examine the books of any bank. No corporation other than a moneyed or insurance corporation may do business in this State with the words, "trust," "bank," "banking," "insurance," "assurance," "indemnity," "guarantee," "guaranty," "savings," "investment," "loan," or "benefit," as a part of its name or corporate title.

The general banking act also provides for the organization and management of savings banks and trust companies.

Banks of discount and deposit, including individual bankers, shall maintain total reserves against its aggregate demand deposits as follows: 18 per cent of such deposits if located in Borough having population of 2,000,000 or over; 15 per cent if in borough of 1,000,000 12 per cent elsewhere in state. Member of a Federal Reserve Bank may maintain such portion of reserves with said Federal Bank as required of its members.

Trust companies having their principal place of business or a branch office, in a borough of this State, having population of 2,000,000, are required to have a lawful money reserve of fifteen (15) per cent, in borough of 1,000,000 population 13 per cent, and in all other places in the State ten (10) per cent. The amount of reserve to be carried on hand is dependent upon location. At least 50 per centum of reserves on hand must consist of gold, gold bullion, gold coin, U. S. gold certificates or U. S. Notes; the balance must consist of any form of currency, other than federal reserve notes, authorized by laws of the U. S.

Foreign banking corporations may transact in this State the business of buying, selling, paying or collecting bills of exchange, or of issuing letters of credit or of receiving money for transmission or transmitting the same or of making sterling or other loans, if the

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corporation is authorized by its charter to carry on such business by paying a license fee of $250 a year, submitting to Superintendent of Banks exemplified copy of its charter and by-laws, designating superintendent as attorney in fact to accept service of process and otherwise comply with Chap. 144-147 of the Banking Law, and receive from the superintendent of banks a license authorizing it to transact such business. But no foreign corporation, other than a national bank, shall keep any office for the purpose of receiving deposits or discounting notes or bills, or issuing any evidence of debt to be loaned or put in circulation as money within this state.

Payment of Savings Bank Deposits. Deposit in name of any minor is free from control of all persons, except creditors, and the receipt of such minor for such deposit is valid to the bank.

Any deposit in trust for another, in the event of the death of the trustee, may be paid to the person for whom the deposit was made, in the absence of notice of the existence of a legal trust.

A deposit in the names of depositor and another person and made payable to either or the survivor, may be paid to either during the lifetime of both, or to the survivor after the death of one.

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

Bulk Sales. (See Personal Property Law.)

Chattel Mortgages. (See Mortgages.)

Consolidated Laws. The Legislature of 1909 passed a large number of compiled statutes reported by the Statutory Consolidation Board, known as "Consolidated Laws," to distinguish them from the "Revised Laws," "Revised Statutes," and "General Laws" heretofore in force in this State.

Conveyances. An estate or interest in real property other than a lease for a term not exceeding one year, cannot be created or granted except by a deed or conveyance, in writing, subscribed by the person creating and granting the same, or by his lawful agent thereunto authorized by writing. This does not affect the power of the testator in the disposition of his real property by will. Deeds must be acknowledged and take effect from delivery only.

Every conveyance not recorded is void, as against a subsequent purchaser in good faith and for a valuable consideration from the same vendor, his heirs or devisees, whose conveyance is first duly recorded.

Acknowledgment must be made by the party who executes the conveyance, or some other person who is a witness to its execution, and at the same time subscribed his name to the conveyance as a witness.

A married woman must join in the conveyance to release her dower. The former provisions of the Revised Statutes relating to the sealing of deeds have been omitted from the present Real Property Law, but it is the universal practice to affix a seal and the forms of deeds incorporated in the "Real Property Law" refer in the attestation clause to the affixing of the seal. The word "Seal" or the letters "L. S." opposite the signature will, however, suffice as the seal of a person. It is otherwise as to corporations, which should adopt a seal and affix it to the conveyance.

Section 258 of Chapter 50 of the Consolidated Laws, being Chapter 52 of the Laws of 1909, provides the following form for a Full Covenant Deed:

Deed with Full Covenants

This indenture, made the.....day of....., in the year nineteen hundred and....., between.....of (insert residence) of the first part, and.....of (insert residence) of the second part.

Witnesseth, that the said party of the first part, in consideration of.....dollars, lawful money of the United States, paid by the party of the second part, doth hereby grant and release unto the said party of the second part, his heirs and assigns forever (description), together with the appurtenances and all the estate and rights of the party of the first part in and to said premises.

To have and to hold the above granted premises unto the said party of the second part, his heirs and assigns forever. And the said party of the first part doth covenant with said party of the second part as follows:

1. That the party of the first part is seized of said premises in fee simple, and has good right to convey the same.
2. That the party of the second part shall quietly enjoy the said premises.
3. That the said premises are free from incumbrances.
4. That the party of the first part will execute or procure any further necessary assurance of the title to said premises.
5. That the party of the first part will forever warrant the title to said premises.

In witness whereof, the said party of the first part hath hereunto set his hand and seal the day and year first above written.

In presence of:

The above enactment does not prevent or invalidate the use of other forms.

Corporations. Insurance, banking, railroad, transportation, and business corporations may be formed under the general laws of the State.

Foreign Stock Corporations (other than moneyed corporations), before doing business in the State, are required to obtain a certificate of authority from the secretary of State. "No foreign stock corporation, doing business in this state, shall maintain any action in this State upon any contract made by it in this State unless prior to the making of such contract it shall have procured such certificate." "This prohibition shall also apply to any assignee of such foreign stock corporation, and to any person claiming under such assignee or such foreign stock corporation or under either of them." What constitutes "doing business in this State" depends on the particular state of facts in each given case; in general it may be said that the selling of goods in this state by mail or through traveling salesmen does not constitute "doing business." Foreign corporations doing business in this State may acquire real property for its corporate purposes and convey the same in the same manner as a domestic corporation. Foreign corporations may acquire on sale in foreclosure of a mortgage held by them or upon any judgment or decree for debts due them, or upon a settlement to secure such debts, real property in this State covered by or subject to such mortgage, judgment, decree, or settlement, and may take by devise any real property situate within this State, and hold the same for not exceeding five years. An assignment for the benefit of creditors made in this State by an insolvent foreign corporation, valid under the law of its domicile, will be recognized as valid here. (Vanderpoel vs. Gorman, 140 N. Y., 563, Jan. 1894.)

No domestic or foreign corporation, except religious, charitable or benevolent corporations, are authorized to do business in the State of New York unless its name has such word or words, abbreviation, affix or prefix therein or thereto as would clearly indicate that it is a corporation as distinguished from a natural person, firm or co-partnership, or unless such corporation uses with its corporate name, in this State, such an affix or prefix; this provision relates only to corporations authorized to do business in this State, or to domestic corporations formed since January 1, 1912.

Courts. Terms and Jurisdiction. The supreme court has unlimited jurisdiction. There is a county court for each county (except New York County) having jurisdiction to the amount of $2,000, 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, the city court of the city of Albany, where the sum does not exceed $1,000, and the Municipal Court of the City of New York where the amount does not exceed $500.

Days of Grace are abolished.

Deeds. See Conveyances.

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 witness' 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 subpœna for such examination is guilty of contempt of court. Depositions may also be taken for use on a motion in any action or proceeding.

Dower. (See Married Women.)

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 of over $25, after execution is returned unsatisfied, defendant and others, including corporations, may be examined as to the judgment debtor's property in proceedings supplementary to execution, and required to apply any not exempt in payment.

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, except where execution is issued on judgment for either work performed in the family as a domestic, or for the purchase price of one or more articles specially exempt. Not to exceed 10 per cent of the earnings or income of a judgment debtor receiving $12 or more per week may be collected and applied on judgment by order of the court under a garnishee execution.

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. Whenever property is purchased by aid of a statement relating to the purchaser's means or ability to pay, made in writing and signed, wherein he states that he keeps books of account, the purchaser upon failure to pay at maturity and during the period of ninety days subsequent to such failure must produce within ten days, upon request, his books of account and permit creditors to examine them, and failure to do so is made presumptive evidence of the falsity of such statement, and the party so making the statement may be proceeded against criminally.

False Statement to Obtain Property or Credit. Any person who knowingly makes, or causes to be made, directly or through any agency whatsoever, any false statement, in writing, respecting his financial condition, or that of any person, firm or corporation in whom he is interested, or for whom he is acting, for the purpose of procuring the delivery of personal property, the payment of cash, the making of a loan or credit, the extension of credit, the discount of an account receivable, or the making, acceptance, discount, sale or endorsement of a bill of exchange or promissory note for the benefit of either himself or of such person, firm or corporation, or, knowing that a false statement, in writing, has been made, procures upon the faith thereof any of the things of benefit above mentioned, or who represents on a later day, either orally or in writing, that such statement theretofore made, if again made on said day, would be then true when, in fact, the statement if then made would be false, and procures upon the faith thereof any of the things of benefit aforesaid, is guilty of a misdemeanor, punishable by imprisonment for not more than one year or a fine of not more than $1,000, or both.

Garnishment. (See Exemptions.)

Holidays. The term holiday includes the following days in each year: The first day of January, known as New Year's Day; the twelfth day of February, known as Lincoln's Birthday; the twenty-second day of February, known as Washington's Birthday; the thirtieth day of May, known as Memorial Day; the fourth day of July, known as Independence Day; the first Monday of September, known as Labor Day; the twelfth day of October, known as Columbus Day; and the twenty-fifth day of December, known as Christmas Day; and if either of such days is Sunday, the next day thereafter; each general election day and each day appointed by the president of the United States or by the governor of this State as a day of general thanksgiving, general fasting and prayer, or other general religious observance. The term half-holiday includes the period from noon to midnight of each Saturday which is not a holiday. Where a contract by its terms requires the payment of money, or the performance of a condition on a public holiday, such payment may be made or condition performed, on the next business day succeeding such holiday, with the same force and effect as if made or performed in accordance with the terms of the contract.

Husband and Wife. (See Married Women.)

Insolvency. (See Assignments and Insolvency.)

Interest. The legal rate of interest is fixed at 6 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 cannot plead usury as a defense. Usury, in certain cases, such as loans on household furniture, etc., 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. 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. Married woman may confess judgment.

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.

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Married Women may 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. A married woman may convey real estate directly to her husband, and the husband may convey directly to his wife. Widows have right of dower. Married women may confess judgment.

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 mortgagor or his representatives, unless a copy thereof is refiled 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. All mortgages on real estate are taxable at the rate of five mills on each dollar of the amount of the principal debt, payable at the time of recording the mortgage.

Notes and Bills of Exchange. Negotiable instruments are defined by Chapter 38 of the Consolidated Laws. Section 20 provides as follows: "Section 20. Form of Negotiable Instrument. An instrument to be negotiable must conform to the following requirements: 1. It must be in writing and signed by the maker or drawer: 2. Must contain an unconditional promise or order to pay a sum certain in money; 3. Must be payable on demand, or at a fixed or determinable future time; 4. Must be payable to order, or to bearer; and 5, where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty." Its negotiability is not affected by a provision which authorizes the sale of collateral securities in case the instrument be not paid at maturity, or authorizes a confession of judgment if the instrument be not paid at maturity; or waives the benefit of any law intended for the advantage or the protection of the obligor; or gives the holder an election to require something to be done in lieu of payment of money, or provides for the payment of costs of collection or an attorney's fee in case of non-payment at maturity. It is not necessary that paper should be made payable at a bank or any fixed place. To charge indorser, notice of non-payment must at once be given to him. The time of maturity is regulated as follows by "Section 145. Time of Maturity. Every negotiable instrument is payable at the time fixed therein without grace. When the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day. Instruments falling due or becoming payable on Saturday are to be presented for payment on the next succeeding business day, except that instruments payable on demand may, at the option of the holder, be presented for payment before 12 o'clock, noon, on Saturday, when that entire day is not a holiday." (See Holidays.)

Personal Property Law. By Chapter 571, Laws of 1911, in effect September 1, 1911, the Legislature enacted a law in relation to sales of goods. This enactment is a codification of the entire law as to such sales and makes extensive changes in the common law upon the subject. "A contract to sell or a sale of any goods or choses in action of the value of $50 or upwards shall not be enforceable by action unless the buyer shall accept part of the goods or choses in action, so contracted to be sold or sold, and actually receive the same, or give something in earnest to bind the contract, or in part payment, or unless some note or memorandum in writing of the contract or sale be signed by the party to be charged or his agent in that behalf." This does not apply to goods to be manufactured by the seller especially for the buyer and not suitable for sale to others in ordinary course of business. The statute also defines Warranties, express and implied, etc.

The transfer of a stock of goods in bulk is void as against creditors unless they have five days' notice of the proposed transfer.

Probate Law. (See Wills.)

Protest. (See Notes and Bills of Exchange.)

Sales of Goods. (See Personal Property Law.)

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 10 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 proper officer, 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 upward, and females of sixteen years and upward, 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. Within two years after the probate of a will an action may be brought in the supreme court to determine the validity of the probate, by any person interested in the will or codicil. Persons within age of minority, of unsound mind, imprisoned, or absent from the State may bring action two years after disability has been removed.

SYNOPSIS OF

THE LAWS OF NORTH CAROLINA

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by A. B. ANDREWS, JR., Attorney at Law, Raleigh.
(See Card in Attorneys' List.)

Accounts and Claims, Proof of. In any action instituted in any court of the State upon an account for goods sold and delivered, an itemized statement of said account, properly verified, shall be received in evidence, and shall be deemed prima facie evidence of the correctness of said account. All creditors of the maker of a deed of trust or assignment must file with the clerk of the superior court a statement under oath, that the amount claimed is justly due, after allowing all credits and offsets. Creditors of a decedent must present their accounts and claims to the administrator or executor within twelve months after publication of notice of administration. But if they fail to do so, and the personal representative has not disbursed the assets of the estate, the creditor may still recover of the personal representative. If he has disbursed the assets, the creditor may recover of the heirs, devisees, legatees, or next of kin, who may have received property of the intestate.

Acknowledgments and Probate of Deeds. Every conveyance of land must be acknowledged or proved and registered in the county where the land lies. All deeds conveying lands in this State, or letters of attorney, or other instruments requiring registration, may be proven or acknowledged (1) before any one of the following officers of this State: A justice of the supreme court, a judge of the superior court, a commissioner of affidavits appointed by the governor of this State, the clerk of the supreme court, a clerk of the superior court, a deputy clerk of the superior court, a clerk of the criminal court, a notary public, or a justice of the peace of this State; or (2) before any one of the following officials of the United States, of the District of Columbia, of the several states and territories of the United States, and of countries under the dominion of the United States and of foreign countries: Any judge of a court of record, any clerk of a court of record, any notary public, any mayor or chief magistrate of an incorporated town or city, any ambassador, minister, consul, vice-consul, vice-consul general, or commercial agent of the United States. The execution of such instrument may be proven or acknowledged before any justice of the peace of any State or Territory of the United States, but when such acknowledgment or proof is taken by the last named officer residing out of the county in which the instrument is offered for registration, the clerk of some court of record in the county where such justice resides must attach his certificate that the justice was at the time an acting justice of the peace of such county.

Admistration of Estates. Letters of administration are granted by the clerks of the superior court: 1. To the husband or widow. 2. To the next of kin in the order of their degree, when they are of different degrees; if of equal degree, to one or more of them at the discretion of the clerk. 3. To the most competent creditor who resides in the State and proves his debt on oath before the clerk of the superior court. 4. To any other person legally competent. A resident of another state may not act. 5. There may be in every county a public administrator, to be appointed by the clerk of the superior court, who may obtain letters of administration, if the party entitled does not apply in six months, or if the person entitled renounces. Where no one applies within six months, all persons are deemed to have renounced, and the clerk may now appoint any discreet person.

The following persons are incompetent to qualify as administrators, namely: A minor, a non-resident, an alien, a person who has been convicted of a felony or one adjudged by the clerk incompetent by reason of drunkenness, improvident or want of understanding, or one who refuses or fails to give the bond required.

Affidavits may be made before the clerks of the supreme court and superior courts, notaries public, and justices of the peace of the State; and also before commissioners of deeds for North Carolina residing in other states, and clerks of any court of record for another state. A pleading may be verified before a notary public in or out of the State, as well as before the other officers above named.

Aliens. Resident or non-resident aliens may take real property by purchase or descent or other operation of law.

Arbitration. There is no statute regulating arbitration. The agreement of the parties as expressed in the "submission" governs. Awards are construed liberally and will not be set aside because of a mistake of law unless it appears that it was the intention to decide according to law.

Arrest and Bail. The defendant may be arrested in certain cases prescribed by statute.

Assignment and Insolvency. Debtors are not permitted by the state law to make assignments or deeds of trust with preferences of particular creditors. A general assignment for the benefit of creditors will not affect any lien in favor of a creditor previously obtained.

Attachments. A warrant of attachment against the property of one or more defendants in an action may be granted upon the application of the plaintiff when the action is to recover a sum of money only, or damages for one or more of the following causes: 1. Breach of contract express or implied. 2. Wrongful conversion of personal property. 3. Any injury to real or personal property in consequence of negligence, fraud, or other wrongful act. 4. Injury to the person caused by negligence or other wrongful act. The warrant of attachment may be granted to accompany the summons, or at any time after the commencement of the action.

Banks and Banking. Any number of persons, not less than three, may associate to establish banks of discount and deposit, to be known as commercial banks, and also to establish offices of loan and deposit, to be known as savings banks, or to establish banks having departments for both classes of business. The aggregate capital shall be not less than $25,000, except at a bank organized in a city or town not exceeding 1,500 inhabitants can have a capital stock of not less than $5,000, and 5,000 inhabitants of not less than $10,000. The records of incorporation shall be executed in triplicate and recorded in the office of the superior court clerk of the county in which the bank is located, in the office of the corporation commission and in the office of the secretary of state. The bank shall not com-

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mence business until the corporation commission shall have ascertained the amount of money paid in on account of capital, the name and residence of each of its directors, the amount of capital stock of which each is the owner in good faith, and whether the bank has complied with all the provisions of law. Whereupon a certificate to this effect from the corporation commission is issued to the bank. Upon its incorporation the bank may exercise all of such powers as are necessary to carry on the business of banking, discounting or negotiating usury notes, drafts, bills of exchange and other evidences of debt by receiving deposits, by buying and selling exchanges, by loaning money on personal security or real property. It may take and receive any interest at the legal rate upon its loans. If may purchase, hold and convey real estate, such as may be necessary for the convenient transaction of its business, which investment shall not exceed 25 per cent of its paid-in capital stock and permanent surplus, such as is mortgaged to it to secure loans, such as is conveyed to it in satisfactory deeds and such as it acquires by sale on any execution in its favor. At least 50 per cent of the capital stock must be paid in before it commences business, and the remainder must be paid in monthly installments of at least 10 per cent, the payment of each installment to be certified to the corporation commission. Provided no bank shall be authorized to commence business with less than paid in capital of $5,000. The delinquent stockholders may be sold out by the bank. The transfer of no stock shall be valid against the bank so long as the registered holder thereof is a director of the bank. The stockholders shall be individually responsible, and not one for another, for all contracts of the bank to the extent of the par value of their stock in addition to the amount invested in such shares.

Bills of Exchange and Promissory Notes. Protest is not required in order to hold the maker or endorser of a promissory note, or the acceptor of a bill of exchange, but it is necessary to hold the drawer or endorser of the bill of exchange.

Unless the contrary be plainly expressed, the endorser of any bill, negotiable bond, or promissory note is liable as a surety, and no demand upon the maker is necessary previous to bringing an action against the endorser. But this does not apply to bills of exchange, whether inland or foreign, nor to notes which are made and become operative as contracts beyond the limits of the State, nor to endorsement made out of this State. It applies in those cases only where not only the endorsement in question, but all antecedent endorsements were made within this State. A note signed and endorsed in another state, but which was never delivered until negotiated in this State is governed by the law of this State, and under it, no demand, protest, or notice of non-payment is required to bind the endorser. All bonds, bills, and notes for money with or without seal, and expressed or not to be payable to order or for value received, are negotiable in like manner, as are inland bills of exchange by custom of merchants of England. January 1st, January 19th, February 22d, April 12th, May 10th, May 20th, July 4th, first Monday in September, and the day appointed bythe governor as a thanks giving day, Tuesday after the first Monday in November when a general election is held, and December 25th of each and every year, are public holidays, and whenever any such holiday shall fall upon Sunday the Monday following shall be a public holiday, and papers due on such Sundays or Mondays shall be payable on the next succeeding business day. There is no difference between Saturday and any other business day so far as negotiable instruments are concerned. When the date of maturity falls upon Sunday or a legal holiday, the instrument is payable on the next succeeding business day. Demand paper falling due on a Saturday not a holiday may be presented before 12 noon The Negotiable Instruments Law, which is the same as the New York statute, was adopted in 1899, and is chapter 54 (Sections 2151 to 2346) of Revisal of 1905.

Claim and Delivery. In an action to recover the possession of personal property the plaintiff may, at the time of issuing summons, or at any time before answer, claim the immediate delivery of such property. He must file an affidavit showing: 1. That the plaintiff is the owner of the property claimed (particularly describing it)or is lawfully entitled to the possession thereof. 2. That the property is wrongfully detained by the defendant. 3. The alleged cause of the detention thereof. 4. That the property has not been taken for a tax, assessment or fine pursuant to statute, or seized under an execution or attachment against the property of the plainttiff, or, if so seized, that it is exempt by statute from such seizure. 5. The actual value of the property. The plaintiff must give an undertaking with sureties in double the value of the property, for its return to the defendant, if return thereof be adjudged, and for damages. The defendant may retain the property to abide the event of the action on giving bond to deliver the property to the plaintiff and pay damages, if it be so adjudged.

Conditional Sales. All conditional sales of personal property in which the title is retained by the bargainor must be reduced to writing and registered in the same manner, for the same fee, and with the same effect, as is provided for chattel mortgages; otherwise they are inoperative as against creditors and purchasers, for value, in so far as they reserve the title in the vendor.

Corporations. May be formed, by any number of persons, not less than three, under the general statute, either with or without personal liability, by filing and recording a plan of incorporation or articles of incorporation, duly signed, in the office of the secretary of state. Thereupon the secretary of State shall record them and send a copy of the same to the cierk of the superior court of the county where the office of the corporation is located, who shall record the same in his office. Charters of corporations formed under general laws may be amended by proceedings before the secretary of state with whom the plan of incorporation was filed, provided there be no change of the business incorporated. They may also be created by a special act of the legislature.

Domestic corporations may hold, purchase and convey real and personal estate, without limit, in and out of the estate, and may take such property by devise or bequest. Any corporation created by an other state or foreign government may acquire by devise or otherwise, and may hold, mortgage, lease and convey real estate in this State, "for the purpose of prosecuting its business or objects, or such real estate as it may acquire by way of mortgage or otherwise in the payment of debts," provided the foreign government under whose laws such corporation was created be not at war with the United States at the time of purchasing such real estate.

Foreign Corporations. Every foreign corporation before being permitted to do business in the State of North Carolina (railroad, banking, insurance, express and telegraph companies excepted) shall file in the office of the secretary of state a copy of its charter, or articles of agreement, attested by its president and secretary, under its corporate seal, and a statement attested in like manner of the amount of its capital stock authorized, the amount actually issued, the principal office in this State, the name of the agent in charge of such office, the character of the business which it transacts and the names and postoffice addresses of its officers and directors. And such corporation shall pay to the secretary of state, for the use of the State, ten cents for every $1,000 of the total amount of the capital stock authorized to be issued by such corporation, but in no case less than $10 nor more than $100. Every corporation failing to comply with the provisions of this section shall forfeit to the State $500, to be recovered with costs in an action to be prosecuted by the attorney-general, who shall prosecute such actions whenever it shall appear that this section has been violated. Acts of 1903, page 1124.

Courts. The supreme court is the appellate court of last resort. It sits twice a year. The superior courts have exclusive original jurisdiction of all civil actions, whereof original jurisdiction is not given to some other court, and they have appellate jurisdiction of all cases determined by a superior court clerk or a justice of the peace. They sit twice a year in every county, and in nearly all of the counties oftener. Clerks of the superior court have jurisdiction of the probate of deeds, granting letters testamentary and of administration, appointment and removal of guardians, apprenticing orphans, auditing of administration and guardian, receivers' and trustees' accounts, the appointment and removal of trustees. Their offices are always open. Justices of the peace have original jurisdiction of all civil actions founded on contracts, when the sum demanded does not exceed $200, and when the title to real estate does not come into the controversy. They also have jurisdiction concurrent with the superior courts of civil actions not founded on contract, wherein the value of property in controversy does not exceed $50.

Days of Grace. All bills of exchange payable within the state, at sight, in which there is an express stipulation to that effect, and not otherwise, shall be entitled to days of grace as the same are allowed by the customs of merchants in foreign bills of exchange payable at the expiration of a certain period after date on sight: Provided that no days of grace shall be allowed on any bill of exchange, promissory note, or draft payable on demand.

Deeds. A scroll is a sufficient seal to a deed in North Carolina.

When real estate shall be conveyed to any person, the same shall be held and construed to be a conveyance in fee, whether the word "heirs" shall be used or not, unless such conveyance shall in plain and expressed words, show or it shall be plainly intended by the conveyance or some part thereof, that the grantor meant to convey an estate of less dignity.

If the deed conveys husband's lands, it should contain a clause releasing dower by the wife, although her signature and acknowledgment alone bars her right of dower. (See Acknowledgments and Probate of Deeds.)

Depositions. Any party in a civil action or special proceedings may take the depositions of persons whose evidence he may desire to use. Written notice of the time and place of taking a deposition, specifying the name of the witness, must be served by the party at whose instance it is taken, upon the adverse party or his attorney. The time for serving such notice shall be as follows: Three entire days when the party notified resides within ten miles of the place where the deposition is to be taken; in other cases, where the party notified resides in the State, one day more for each additional twenty miles, except where the deposition is to be taken within ten miles of a railway in running operation in the State, when one day only shall be given for every 100 miles of the railway to the place where the deposition is to be taken. Where a deposition is to be taken beyond the State, ten days' notice of the taking thereof shall be given, when the party whose deposition is to be taken resides within ten miles of a railway connecting with a line of railway within twenty miles of the place where the person notified resides. In other cases, where there are no railways running as above specified, twenty days' notice shall be given.

Descent and Distribution. When any person shall die seized of an inheritance, not having devised the same, it shall descend according to the following rules: 1. Real estate lineally descends. 2. Females shall inherit equally with males, and younger with older children. 3. The lineal descendants shall represent their ancestors. 4. On the failure of lineal descendants, and when the inheritance has been transmitted by descent or derived by gift, devise or settlement from an ancestor, the estate shall descend to the next collateral relations of the person last seized, who were of the blood of such ancestor. 5. On the failure of lineal descendants, and when the inheritance has not been so transmitted or devised, or when the blood of such ancestors is extinct, the estate passes to the next collateral relations of the person last seized. 6. Collateral relations of the half blood shall inherit equally with those of the whole blood. 7. A person dying, without issue, and leaving no brother or sister, or issue of such, the father, if living, shall inherit, and if not, the mother. 8. When a person shall die leaving no heirs. the widow shall be deemed his heir. 9. Illegitimate children shall inherit from their mother. 10. Illegitimate children may inherit from each other. When an illegitimate child shall die without issue, his mother shall inherit from him. 11. The personal estate of a deceased person, in case of intestacy, shall be distributed in the following manner: 1. If not more than two children, one-third to the widow and all the residue equally among the children and such persons as legally represent such persons who may be dead. 2. If there are more than two children, the widow and all the children share alike. 3. If there be no child nor legal representative of a deceased child, then one-half of the estate to the widow and the residue equally to the next of kin to the intestate, who are of equal degree, and those who represent them. 4. If there be no widow, then equally among the children and the legal representatives of the deceased children. 5. If there be neither widow nor children nor any legal representatives of the children, then the next kin of the intestate who are in equal degree and those who legally represent them. 6. If, in the lifetime of the father, any of his children shall die intestate without wife or children, then the father shall be entitled to all of the personal property of such deceased child, but, if after the death of the father and in the lifetime of the mother, any of his children shall die intestate, without wife or children, every brother or sister, and the representatives of them, shall have an equal share with the mother of the deceased child. 7. If there be no child nor legal representative of a deceased child nor any of the next kin of the intestate, then the widow, if there be one, shall be entitled to all of the personal estate of such intestate. 8. If any married woman die intestate leaving one child and a husband, her personal estate shall be equally divided between the child and the husband. If she leave more than one child and a husband, her personal estate shall be divided in equal portions and the husband shall receive a child's part: Provided, However, that this act shall not apply where the husband of the deceased woman is father of all the children, or their descendants of his deceased wife.

Detinue. (See Claim and Delivery.)

Dower. The wife is entitled to one-third in value of all the land of which her husband was seized during coverture, including the dwelling house in which her husnand usually resided, for her lifetime. Dower, and all other rights in a husband's estate, are forfeited by elopement with an adulterer, by abandonment without just cause, and by a divorce a vinculo, or divorce a mensa et thoro granted at the suit of the husband. A wife who murders her husband forfeits her right of dower. (See Administration of Estates.)

Executions. At any time within three years after docketing of judgment, or after the issue of the last execution, judgments may be enforced by execution without application to court, by the judgment creditor, or in case of his death by his personal representative duly appointed; after three years from the docketing or date of issue of last execution, only by leave of court, upon satisfactory proof that the judgment has not been paid. Executions issuing from the superior court may issue immediately after the term at which judgment was rendered and shall be returnable to the next term of the court beginning not less than forty days after the issuing thereof. Issuing from a justice's court they are returnable in sixty days.

Exemptions. Articles of personal property not to exceed the value of $500, and real estate not to exceed $1,000 in value, to be selected

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by the owner thereof, and to be valued by three sworn appraisers, provided he be a resident of the State. The homestead is not exempt from liability to be sold for contract made for the purchase of the same, nor for taxes. The widow and infant children are entitled to the homestead until the youngest child reaches the age of twenty-one years. The statute of limitations shall not run against any judgment owing by the owner of a homestead or homestead interest, during the existence of such homestead or homestead interest, whether the same has been or shall hereafter be allowed, assigned, or set apart under execution or otherwise. The allotted homestead shall be exempt from levy so long as owned and occupied by the homesteader or by any one for him, but when conveyed by him in the mode authorized by the constitution (article ten, section eight), the exemption thereof ceases as to liens attaching prior to the conveyance. The homestead right being indestructible, the homesteader who has conveyed his alloted homestead, can have another allotted, and as often as may be necessary: Provided, this act shall not have any retroactive effect. The law of partition has been changed so that lands held in common may be partitioned at the instance of a judgment creditor, in order that homestead may be allotted, and mineral interests and timber interests may be partitioned separate from the land interests.

Foreign Corporations. (See Corporations.)

Fraud. Alienations, which may be contrived for fraud, shall be deemed and taken to be utterly void and of no effect. Every conveyance, of any lands or goods, if the same be made with the actual intent in fact to defraud such person as hath purchased, or shall purchase, or to defraud such as shall purchase any rent or profit out of the same, shall be deemed utterly void.

Fraudulent Sales. The sale in bulk or a large part of the whole of a stock of merchandise, otherwise than in the ordinary course of trade and in regular and usual prosecution of the seller's business, shall be prima facie evidence of fraud, and void against the creditors of the seller, unless the seller, at least seven days before the same make an inventory showing the quantity and, so far as possible, the cost price to the seller of such articles included in the sale, and shall within said time notify the creditors of the proposed sale, and the price, terms and conditions thereof, provided, that if the owner or owners of said stock of goods shall at any time before the said sale execute a good and sufficent bond to a trustee therein named, in an amount equal to the actual cash value of said stock of goods, and conditional that the seller of said stock of goods will apply the proceeds of said sale, subject to the right of the owner or owners to retain therefrom the personal property exemption or exemptions as are allowed by law, so far as it will go in payment of debts actually owing by said owner or owners, then the provisions of this act shall not apply.

Fraudulent Trading. That if any person or persons shall transact business as a trader or merchant, with the addition of the words "factor," "agent," "and company" or "and Co." or shall conduct such business under any name of style other than his own, except in case of corporation, and fail to disclose the names of his principal or partner by a sign placed conspicicuously at the place wherein such business is conducted, or if any married woman shall conduct such business through her husband or any other agent, or if any husband or agent of any married woman shall conduct such business for her without displaying the Christian name of such married woman, and the fact that she is a feme convert, by a sign placed conspicuously at the place wherein such business is conducted, then all the property stock of goods and merchandise and choses in action purchased, used and contracted in the court of such business shall, as to creditors, be liable for the debts contracted in the course of such business by the person in charge of same. Any married woman conducting business as aforesaid without complying with the above shall for all purposes be deemed and treated to all debts contracted in the course of such business as a free-trader. No business can be legally conducted or transacted in this State by any person or persons under any assumed name, or under any designation, name or style other than the real name or names of the individual or individuals owning, conducting or transacting the same, unless such person or persons shall file in the office of the clerk of the superior court of the county or counties in which such business is conducted a certificate duly acknowledged setting forth the name under which such business is to be conducted or transacted, and the true and real name or names of the person or persons owning, conducting or carrying on the same, with the home and post office address or addresses of said person or persons; but the foregoing shall not apply to the selling of goods by sample or through traveling agents or salesmen, or by orders forwarded by purchasers through the mails. Failure to comply is a misdemeanor.

Frauds, Statute of. No action shall be brought whereby to charge an executor or administrator upon a special promise to answer damages out of his own estate or to charge any defendant upon a special promise to answer the debt, default,for miscarriage, of another person unless the agreement upon which such action shall be brought or some memorandum or note thereof shall be in writing and signed by the party charged therewith, or some other person thereunto by him lawfully authorized. All contracts for the sale of land, and all leases and contracts for leasing land for the purposes of digging gold or other minerals, or for mining generally, of whatever duration, and all other leases and contracts for leasing lands, exceeding in duration three years from the making thereof, shall be void unless put intc writing and signed by the party to be charged therewith, or by some person by him lawfully authorized thereto. No acknowledgment or promise shall be received as evidence of a new or continuing contract, whereby to take the case out of the operation of the statute of limitations, unless the same be contained in some writing signed by the party to be charged thereby. But this shall not alter the effect of any payment of principal or interest.

Garnishee Process. Process may issue upon judgment and in attachment to hold, and where a third party may owe or have belonging to debtor.

Holidays. January 1, January 19, February 22, April 12, May 10, May 20, July 4, first Monday in September and a day appointed by the governor as a day of thanksgiving, Tuesday after first Monday of November when a general election is held, and December 25. And whenever any such holiday shall fall on Sunday, the Monday following shall be the public holiday. When the day of maturity of a note falls on Sunday or a holiday, the note is payable on the next succeeding business day. (See Bills of Exchange and Promissory Notes.)

Homestead. (See Exemptions.)

Husband and Wife. (See Married Women.)

Interest. The legal rate of interest is 6 per cent. Taking, receiving, or charging a greater rate, either before or after the interest may accrue, when knowingly done, shall cause a forfeiture of the entire interest. The person or corporation by whom it is paid may recover back twice the amount of interest paid in the nature of an action for debt, commenced within two years after payment. In any action brought to recover upon the note or other evidence of debt, the defendant may plead by way of counterclaim twice the amount of interest paid, and also the forfeiture of the entire interest. No person shall recover any costs who may endeavor to recover upon a usurious contract.

Judgments. Judgments of the superior court are liens upon the lands and interests of a debtor within the county from the date of docketing the same for the space of ten years. If three years shall elapse since the date of the last execution the judgment becomes dormant, and execution shall only be issued thereon by leave of the court upon motion, with personal notice to the adverse party, and after satisfactory proof that the judgment or some part thereof remains unsatisfied. Transcripts of judgments obtained from a justice of the peace may be docketed in the superior court, and from that time the judgment shall be a judgment of the superior court in all respects. All judgments rendered at a term of the superior court bear date as of the first day of the term, and there is no priority between them in the county of their rendition. A transcript of a docketed judgment properly certified by the clerk, may be filed in the clerk's office of any other county, when it becomes a lien upon the debtor's real estate in that county from the date of the docketing in such county. Judgments of the supreme court may be docketed in the superior court of any county of the State, and when so docketed their lien shall be the same as judgments of the superior court. Judgments of no court constitute a lien upon the personal property before levy.

Limitations. Within ten years: 1. An action upon a judgment or decree of any court of this State, or of the United States, or of any state or territory thereof, from the date of rendition of said judgment or decree. But no such action shall be brought more than once, nor have the effect to continue the lien of the original judgment. 2. An action upon a sealed instrument against the principal there to. Within seven years: 1. An action on a judgment rendered by a justice of the peace, from the date thereof. 2. By any creditor of a deceased person against his personal or real representative, within seven years net next after the qualification of the executor or administrator, and his making the advertisement required by law for creditors of the deceased to present their claims, where no personal service of such notice in writing is made upon the creditor, and the creditor, thus barred of a recovery against the representative of any principal debtor shall also be barred of a recovery against any surety of such debt. Within six years: 1. An action upon the official bond of any public officer. 2. An action against any executor, administrator, collector, or guardian on his official bond, within six years after the auditing of his final accounts, by the proper officer, and the filing of such audited accounts as required by law. Within three years: 1. An action upon a contract, obligation, or liability arising out of a contract, express or implied, except those mentioned in the preceding sections.

Married Women. A married woman may hold property, both real and personal, free from the debts, obligations, or engagements of her husband. A married woman is authorized to contract and deal so as to affect her real and personal property in the same manner and with the same effect as if she were unmarried, but no conveyance of her real estate shall be valid unless made with the written assent of her husband as provided by section six of article 10 of the Constitution, and her privy examination as to the execution of the same taken and certified as now required by law. The real or personal property of any female in this state, acquired either before or after marriage, shall remain the sole and separate property of such female, and may be devised or bequeathed, and, with the written consent of her husband, may be conveyed her as if she were unmarried. No man, by marriage, shall incur any liability for any debts owing or contracts made, or for wrong done, by his wife before the marriage. Married men whose wives are lunatics may sell their real estate. The deed made under it conveys merely the right of the husband, reserving to the insane wife her right of dower, but apparently not her homestead. Married women may confess judgment. The earnings of a married woman by virtue of any contract for her personal services, and any damages for personal injuries, or other tort sustained by her, can be recovered by her suing alone, and such earnings or recovery shall be her sole and separate property as fully as if she had remained unmarried.

Mortgages. Mortgages and deeds of trust are required to be registered, and are only valid as against creditors or purchasers for a valuable consideration from the date of registration, but a mortgage is valid against the maker without registration. Mortgages of incorporate companies upon their property or earnings, whether in bonds or otherwise, hereafter issued, shall not have power to exempt the property or earnings of such corporations, from execution for the satisfaction of any judgment obtained in courts of the State against such corporation, for labor performed nor for costs committed by such corporation, its agents or employees, whereby any person is killed or any person or property injured. When there are two or more mortgagees or trustees the survivor is authorized to execute power of sale in the mortgage or deed of trust, and so is the executor or administrator of a deceased mortgage. When the mortgage or deed of trust contains a power of sale, it may be exercised after the death of the mortgagor. In case of sale of real estate in deed of trust or mortgage the premises must be described in the notice of sale subsequently as they are described in the deed of trust or mortgage, and the sale may be made through an agent or attorney for that purpose, appointed orally or in writing, whether the mortgagee or trustee be present or not. Deeds of trust, mortgages, and similar sales shall be regulated as to time of advertisement and costs of the same, by the same statute which regulates sales under execution.

Negotiable Instruments. (See Bills of Exchange.)

Partnership. A partnership doing business under an assumed name must file with the Clerk of the Superior Court the names of the partners.

Powers of Attorney. Powers of attorney authorizing the execution of deeds or other acts requiring a seal must be under a seal. It should be recorded along with the deed.

Stay of Execution. Judgment in a justice's court only may be stayed upon security given, if asked for at the trial, as follows: For any sum not exceeding twenty-five dollars, one month; for any sum above twenty-five and not exceeding fifty dollars, three months; for any sum over fifty dollars and not exceeding one hundred dollars, four months; for any sum above one hundred dollars, six months. No stay is allowed upon a suit upon a former judgment

Supplementary Proceedings. Upon an affidavit showing: 1. The return of the execution in whole or in part. 2. The want of known property liable to execution. 3. The existence of property belonging to the judgment debtor unaffected by any lien and incapable of levy. 4. The existence of property, choses in action, and things in value (belonging to the judgment debtor) unaffected by any lien, and incapable of levy, an order may be obtained for the examination of the judgment debtor concerning his property. Supplementary proceeding may likewise be instituted before the return of the execution upon an affidavit showing the foregoing facts, and also that the judgment debtor has property which he unjustly refuses to apply to the satisfaction of the judgment. Third parties may also be examined, if it appears by affidavit that they owe the defendant more than $10. Witnesses may be examined. Property discovered may be applied to the execution. A receiver may be appointed, and transfers by debtors enjoined.

Taxes. The lien of the State, county, and municipal taxes, levied for all purposes in each year attaches to all property subject to such taxes on the 1st day of June annually. All personal property subject to taxation shall be liable to be seized and sold for taxes. All taxes are due on the first Monday of September in each year. If the party charged has personal property of the value to the tax charged against

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him, the sheriff or tax collector shall seize and sell the same as he is required to sell other property under execution. If the party charged has not personal property to be found in the county, of sufficient value, the real estate of the delinquent shall be levied upon and sold.

Wills. No last will or testament shall be good or sufficient in law to convey or give an estate, real or personal, unless such last will shall have been written in the testator's lifetime, and signed by him, or by some other person in his presence and by his direction. All wills must be subscribed in his presence by two witnesses at least. No one of them shall be interested in the devise or bequest of the said estate, except as hereinafter provided. Or, unless, such last will and testament be found among the valuable papers and effects of any deceased person, or shall have been lodged in the hands of a person for safe keeping, and the same shall be in the handwriting of such deceased person, with his name subscribed thereto, or inserted in some part of such will; and if such handwriting shall be proved by three credible witnesses, who verily believe such will and every part thereof is in the handwriting of the person whose will it appears to be, then such will shall be sufficient to give and convey real and personal estate. No person shall be capable of disposing of real or personal estate by will, nor be allowed to qualify as executor of a will until he shall have attained the age of twenty-one years. A married woman owning real or personal property may dispose of the same by will.

SYNOPSIS OF

THE LAWS OF NORTH DAKOTA

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by PIERCE, TENNESON AND CUPLER, Attorneys at Law, Fargo. (See Card in Attorneys' List.)

Acknowledgments of deeds or other instruments may be made at any place within this State before a justice or a clerk of the supreme court, or a notary public; and within district in this State for which an officer is appointed or elected before a judge or clerk of a court of record, a mayor of city, registrar of deeds, a justice of the peace, a U. S. circuit or district court commissioner, or a county auditor, and 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, secretary of legation, a consul, vice-consul, or consular agent of the United States resident where made, a judge, clerk registrar or commissioner of a court of record of the country where made, or a notary public of such country, or an officer authorized by laws where proof or acknowledgment is taken, to take such; any deputy of these officers in name of principal as deputy, or by such deputy as deputy. Certificate must be authenticated by name and official designation and seal of officer. The form is statutory, and is substantially as follows:

State of.....} ss.
County of.....}

On this .... day of ....., in the year...., before me personally appeared....., known to me to be the person..who is (are) described in, and who executed the within instrument, and acknowledged to me that he (or they) executed the same.

Acknowledgment of corporation must be substantially in the following form:

State of.....} ss.
County of.....}

On this.... day of....., in the year .....before me (here insert the name and quality of the officer), personally appeared..... known to me (or proved to me on the oath of .....), to be the president (or secretary) of the corporation that is described in and that executed the within instrument, and acknowledged to me that such corporation executed the same.

Acknowledgment of an attorney in fact must be substantially in the following form:

State of.....} ss.
County of.....}

On this .... day of ....., in the year .... before me (here insert the name and quality of the officer), personally appeared..... known to me (or proved to me on the oath of.....) to be the person who is described in and whose name is subscribed to the within instrument as the attorney in fact of ....., and acknowledged to me that he subscribed the name of .....thereto as principal, and his own name as attorney in fact.

Actions. Actions in courts of record are commenced by service of summons on the defendant, requiring him to answer within thirty days, and if no appearance is made within that time, the plaintiff may take judgment by default upon the expiration of the thirty days. When property of defendant is attached, and in actions affecting real property, and for divorced, summons may be served by publication when defendant is a non-resident or cannot be found. Personal service outside the State is equivalent to service by publication and service is complete at the expiration of fifteen days after such personal service. Judgment by default may be taken at the expiration of sixty-six days after the first publications of summons, forty-five days after personal service outside the State, and thirty days after personal service in the State.

Administration of Decedent's Estate. Administration is granted: 1, to surviving husband or wife or some competent person whom he or she may request to have appointed; 2, his heirs; 3, his creditors; 4, any person legally competent, for lack of any other classes. An executor or administrator must be over twenty-one years of age. An administrator cannot be a surviving partner. A married woman cannot be appointed administratrix. Bond must be given in such sum as the court requires. Debts are paid as follows: 1, expenses of administration; 2, last sickness and funeral; 3, allowance of family in excess of exempt property; 4, debts having preference under the laws of the United States; 5, debts which are liens upon specific property, in the order of their priority, to the extent of the property subject to the lien; 6, all other demands, which includes deficiency on secured debts not paid by sale of the property held as security. Notice must be given of the time of presenting claims, which must be presented within six months after notice if the estate exceeds $5,000, and four months when it does not. Exempt property is set apart to the family.

Affidavits. An affidavit may be made before any person authorized to administer an oath.

Aliens may acquire, hold, and transfer real estate same as citizens.

Arbitration. Parties may submit controversies to arbitration under statutory provision.

Arrest. No person can be imprisoned for debt unless upon refusal to deliver up his estate for the benefit of his creditors in such manner as shall be provided by law, or in cases of tort, or where there is a strong presumption of fraud. No female can be arrested except for injury to person, property, or character. An order of arrest may be granted by the order of the court in which the action is brought, when it appears by affidavit that the case is one of those in which arrest is provided for.

Attachment. In actions for recovery of money only, and for the wrongful conversion of personal property, and for damages arising out of contract, or otherwise, attachment may issue against the property of the defendant, in cases provided by law. An action may be commenced before the claim is due, and property of the defendant attached when he has assigned or disposed of his property with intent to defraud his creditors, or is about to do so. In an action to recover purchase money for personal property sold to the defendant an attachment may be issued and levied upon such property. (See Garnishment.)

Banks. 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:

1. The name assumed by such association, which shall not be that of any other bank in the State.
2. The place where the business of discount and deposit is to be 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.

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.
8. It cannot carry among assets at any one time loans wholly upon real estate security (and then only on first mortgage) exceeding 25 per cent of its total loans and discounts and must not guaranty payment or collection thereof.

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, or as security for loans made.
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. The minimum of capital required depends on the population of the town in which the bank is situated, and cannot be less in any case than $10,000. Fifty per cent must be paid in before commencing business; the balance in monthly installments of 10 per cent each. The organization certificate and authorization of the secretary of state must be published.

Shares may be sold for non-payment of installments.

Shares shall be $100 each, shall be deemed personal property, and may be transferable on the books as prescribed by the by-laws, and transfer is only valid between parties when not transferred on books.

No transfer of stock is valid against the bank or any creditor thereof as long as registered holder is liable for any past due indebtedness, and no dividends can be paid on such stock as long as such liability continues. Every transferee of stock becomes, in proportion to his shares, responsible for liabilities of prior holders thereof.

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 until approved by the State banking board.

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, unpledged and in his own right, must be sworn, and oath filed with public examiner.

Reports. At least five 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, in addition to the amount invested in such shares. Such liability continues one year after any transfer.

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Security. No loans shall be made on security of shares of its own stock. Association cannot purchase or hold such stock except to prevent loss, and shall not have or carry among its assets loans dependent wholly upon real estate security.

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. The limit of bank loans to one concern not to exceed 15 per cent of the capital or the surplus stock actually paid in may be loaned to any one borrower, including the individual members of a bank or firm; but the discount of bills of exchange drawn in good faith against actual existing value or loans upon produce in transit or actually in stock as collateral security is allowed above 15 per cent.

No banking business can be done otherwise than under this law.

Violations of the provisions of the act, and false entries and the receipt of deposits when insolvent, are punished by fine and imprisonment.

Public examiner is ex-officio superintendent of banks.

Insolvency. The State banking board, in case of violation of law or by insolvency of any banking association, takes charge of insolvent bank and appoints a temporary receiver, pending action of the courts.

Other Business. No bank shall as principal employ any of its assets in trade or commerce, or invest them in stock, corporation, bank partnership or firm, nor in speculative margins or other commodities.

Banking Board. The governor, secretary of state, and attorney-general constitute the State banking board, and have charge and control of all state banking organizations and make rules for their government, examine all reports and approve or disapprove the same.

The law gives Banking Board power to refuse a charter.

The law known as the negotiable instrument act, recently enacted in several states is now in full force here.

Chattel Mortgages. A mortgage of personal property must be signed by the mortgagor in the presence of two witnesses who must sign the same as witnesses thereto, or acknowledge the execution of the same before some official qualified to take acknowledgments. And every mortgagee must surrender to the mortgagor at the time of the execution of the mortgage a correct copy of the original mortgage so signed, with witnesses or acknowledgement shown thereon. And the mortgagor must surrender to the mortgagee a receipt which shall be attached to the original mortgage showing that the mortgagee has surrendered to him a copy of such mortgage, and said receipt must accompany the mortgage when presented to the register of deeds and filed therewith.

Collaterals. Collateral note may provide for a sale of securities pledged, in which case the sale may be made on 10 days notice without court proceedings, but the pledgee cannot legally purchase at the sale unless authorized by the collateral note.

Contracts. The civil code contains a codification of the law on the subject of contracts, not materially different from the rules of the common law. Contracts for sale of real property must be in writing, signed by vendor or by his agent thereunto authorized in writing.

Conveyances. Conveyances of real estate or mortgages thereof, must be by an instrument in writing, subscribed by the party disposing of the same, or by his agent having written authority. To entitle such conveyance to be recorded, it must be acknowledged as provided by law. (See Acknowledgments.) Witnesses or seals are not required. Instrument must be recorded to make it valid as against subsequent purchasers or incumbrancers in good faith for value where conveyances are first duly recorded, and as against judgments and attachments. Husband need not sign conveyance of wife's property, nor wife that of husband's, unless it is a homestead.

Corporations. Corporations may be formed for any purpose for which persons may lawfully associate, and, except railroads and insurance companies, may be formed by the association of three persons, and the proper filing of articles of incorporation. Transfers of stock must be made upon the books of a corporation, and are only valid as between the parties unless so made. A creditor of a corporation having secured judgment, issued execution against the corporation thereon, may, when the same is returned unsatisfied, have a receiver appointed for the property of the corporation, and the district court is then empowered to distribute the property of the corporation among its creditors, and a settlement of the judgment, which is the basis of the proceedings, does not prevent the continuance of the action, which may be continued by any creditor. Corporations may also be dissolved by action on the part of the State, or in case the attorney-general fails to commence action after proper application, by action on the part of the creditor or stockholder. Domestic corporations must file a report during the month of July in each year with the secretary of state, and failure to do so forfeits the charter. Foreign corporations are prohibited from transacting any business in this State, acquiring, holding, or disposing of any property, real or personal, until they have filed in the office of the secretary of State a copy of their articles of incorporation, together with a power of attorney, appointing the secretary of state and his successors their attorney, on whom process may be served. Insurance corporations must file such power of attorney and articles in the office of the insurance commissioner. All contracts made by a corporation or its agent, while it is in default in the filing of such papers, are wholly void as to the corporation, but may be enforced against it, and the directors and stockholders are personally liable on such contracts. These provisions do not apply to corporations created for religious or charitable purposes only, nor to the holding and disposing of real estate acquired only by foreclosure or otherwise, in liquidation of mortgages or other securities. Insurance companies must have $100,000 capital paid in cash. Conveyances or other instruments affecting real estate may be executed by any officer authorized by the by-laws of the corporation, and in the absence of such by-laws, the president or secretary of such corporation, or the president, secretary, or cashier of any banking house, or trust company, may acknowledge and execute such instrument, who must sign the corporate name by himself as such officer, and it must be attested by the seal and signature of the secretary.

Costs. Costs are allowed to the prevailing party in suits.

Courts. There are twelve judicial districts. The district courts have exclusive jurisdiction in equity and at common law above $200 and where the title or boundary of real property is in question, except in a few counties where county courts have concurrent jurisdiction with district courts in civil actions where amount in controversy does not exceed $1,000. Two terms of district court are held each year in all organized counties and oftener in a few counties. Each organized county has a county court, and the county courts have exclusive probate jurisdiction. In some counties, the county courts have jurisdiction of actions at law, where claim does not exceed $1,000. Justices' jurisdiction is $200.

Creditors' Bills. Creditors' bills are permissible.

Days of Grace are not allowed.

Deeds. Deeds must be subscribed by the grantor or by his agent thereunto authorized in writing. To entitle them to record they must be acknowledged. No seal or witnesses are necessary. Can be recorded on proof by witness if not acknowledged; one member of partnership may execute.

Depositions. Depositions may be taken upon commission issued by a court of record, or upon notice, which latter is the usual method. The deposition must be written by the officer or in his presence by the witness, or some disinterested person, and must be subscribed by the witness. The officer taking the deposition must annex thereto his certificate showing: 1. That the witness was sworn to testify the truth, the whole truth, and nothing but the truth. 2. That the deposition was reduced to writing by some proper person, naming him. 3. That the deposition was written and subscribed in the presence of the officer certifying thereto. 4. That the deposition was taken at the time and place specified in the notice. The deposition so taken must be sealed, endorsed with the title of the cause, with the name of the officer taking the same, and by him addressed and transmitted to the clerk of the district court where action or proceeding is pending. When taken outside the State on notice they can be taken by a judge, justice or chancelor or clerk of any court of record, a justice of the peace, notary or mayor, or a commissioner of the State.

Descent and Distribution of Property. 1. If a decedent leave 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 the decedent leave a surviving husband or wife, and more than one child living, 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 his children, and to the lawful issue of any deceased child, by right of representation; but if there be no child of the decedent living at his death, the remainder goes to all of his lineal descendants; and if all the descendants are in the same degree of kindred to the decedent, they share equally, otherwise they take according to the right of representation. If the decedent leave no surviving husband or wife, but leaves issue, the whole estate goes to such issue, and if such issue consists of more than one child living, or one child living and the lawful issue of one or more deceased children, then the estate goes in equal shares to the children living, or to the children living and the issue of the deceased child or children by right of representation. 2. If the decedent leave no issue, and the estate does not exceed in value the sum of $15,000, all the estate goes to the surviving husband or wife, and all the property in excess of $15,000 in value, one-half thereof goes to the surviving husband or wife, and the other one-half goes to decedent's father and mother in equal shares and if either be dead, to the survivor, and if both father and mother are dead and the decedent leaves no issue, and estate does not exceed $25,000, the whole thereof goes to the surviving husband or wife and the excess is divided one-half to the surviving husband or wife and one-half in equal shares to the brothers and sisters of decedent and to the children of any deceased brother or sister by right of representation. If the decedent leave no issue, nor husband, nor wife, the estate must go to the father and mother in equal shares and if either is dead, to the survivor. If the decedent leave a surviving husband or wife, and no issue, and no father nor mother, nor brother, nor sister, nor children of a deceased brother or sister, the whole estate goes to the surviving husband or wife. 3. If there be no issue, nor husband, nor wife, nor father, nor mother, then in equal shares to the brothers and sisters of the decedent, and to the children of any deceased brother or sister by right of representation. 4. If the decedent leave no issue, nor husband, nor wife, nor father, and no brother or sister is living at the time of his death, the estate goes to his mother to the exclusion of the issue, if any, of deceased brothers or sisters. 5. If the decedent leave no issue, nor husband, nor wife. and no father, nor mother, nor brother, nor sister, the estate must go to the next of kin, in equal degree, excepting that when there are two or more collateral kindred, in equal degree, but claiming through different ancestors those who claim through nearest ancestors must be preferred to those claiming through an ancestor more remote. However, if the decedent leave several children, or one child and the issue of one or more children, and any such surviving child dies under age, and not having been married, all the estate that came to the deceased child by inheritance from such decedent, descends in equal shares to the other children of the same parent, and to the issue of any such other children who are dead, by right of representation. 6. If, at the death of such child, who dies under age, not having been married, all the other children of the parents are also dead, and any of them have left issue, the estate that came to such child by inheritance from his parents descends to the issue of all other children of the same parent; and if all issue are in the same degree of kindred to the child, they share the estate equally, otherwise they take according to the right of representation. 7. If the decedent leaves no husband, wife, or kindred, the estate escheats to the State for the support of the common schools. 8. If deceased be infant, and leaves no heirs, whole estate goes to foster parent who supports infant.

Dower. Dower is abolished. Surviving spouse has homestead rights to extent of $5,000 in value.

Evidence. Evidence may be given in court orally or by deposition taken in accordance with law. (See Depositions.)

Executions. Judgment creditor may take out execution at any time within ten years after entry of judgment. Real property sold on execution may be redeemed within one year.

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 or 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, if a head of a family may select from all other of his personal property, goods, chattels, merchandise, money or other personal property up to $500. No personal property, except absolute exemptions, is exempt from execution for laborers or mechanics' wages, or physician's, nurse's, or hospital bills, or bills for wearing apparel, groceries and provisions, or for property obtained under false pretenses. No property is exempt from execution for the purchase money thereof.

Fraud. Contracts exempting from responsibility for fraud are declared by statute to be void.

Foreign Corporations. No foreign corporation except an insurance company can transact any business within this State, or acquire, hold, or dispose of property, real or personal, within the State until it shall have filed in the office of the secretary of State a duly authenticated copy of its charter or articles of incorporation, and shall have appointed the secretary of State and his successors its true and lawful attorney upon whom all process in any action or proceedings against it may be served, and therein agrees that any process that may be served upon said attorney shall be of the same force and validity as if served upon it personally in this State, and that such appointment shall continue in force irrevocable so long as any liability remains outstanding in this State. The secretary of State is required to mail forthwith copy of process served to such corporation at its principle place of business, or if it is a corporation of a foreign country, to its resident manager in the United States, or to such other person as may have been previously designated by written notice filed in the office of the secretary of State. Failing to comply with these provisions renders every officer, agent or stockholder of such corporation jointly and severally liable on any and all contracts of such corporations made within this State during the time it is in default, and every such contract made without complying with these provisions, is wholly void on behalf of such corporations and its assigns but may be enforced against it. They must file with the secretary of state between July 1st and August 1st of each year, a report showing the location of the principal office in this city, names of officers with their residence and post office address, date, expiration of their terms of office, whether or not they are pursuing active business under charter and kind of business

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engaged in, and must show paid up capital stock of at least $100,000 in available cash assets over and above all liabilities for losses reported, expenses, taxes and re-insurance of all outstanding risks.

Garnishment. A creditor may proceed by garnishment. No judgment can be rendered against a garnishee on: 1. Upon a negotiable note, bill, draft, note or other security. 2. By reason of money collected by him as sheriff or other officer. 3. By reason of money in his hands as a public officer, for which he must account to the defendant as a public officer. 4. By reason of money, or other thing, owing from him to the defendant which shall not have become absolutely due, but judgment may be rendered for any money or other thing owing to the defendant after it shall have become due absolutely. Public corporations may be made defendants when owing or holding property belonging to the debtor.

Holidays. Holidays are every Sunday, January 1st, February 12th, February 22d, May 30th, July 4th, December 25th, the first Monday in September, 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 of the State, for a public fast, thanksgiving, or holiday. If January 1st, February 22d, July 4th, or December 25th, falls upon Sunday, the Monday following is a holiday. All other days are business days, and any act of a secular nature appointed by law or contract to be performed upon a particular day, which day falls upon a holiday, may be performed upon the next business day, with the same force and effect as if it had been performed upon the day appointed.

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, and may be renewed by affidavit within ninety days before expiration of the ten years.

Jurisdiction. Courts of the State consist of the supreme court, district courts, county courts, courts of justices of the peace, and such other courts as may be created by law for cities, incorporated towns and villages. Supreme, district, and county courts are courts of record. The supreme court has appellate jurisdiction only, except that it may exercise original jurisdiction to issue writs of habeas corpus, mandamus, quo warranto, certiorari, and such original and remedial writs as are necessary to the proper exercise of its jurisdiction. But it issues writs of habeas corpus only in case of strictly public concern involving questions affecting sovereign rights of the State, or its franchises or privileges. District courts have general jurisdiction. County courts have original jurisdiction in all probate matters, and in certain counties have concurrent jurisdiction—in civil actions where amount in controversy does not exceed $1,000, and in criminal actions below felony. Courts of justice of the peace have concurrent jurisdiction with the district court in civil actions when amount in controversy does not exceed $200, but have no jurisdiction in cases when the boundaries of, or title to real estate comes in question.

Liens. Mechanics, laborers, and furnishers of material, machinery, or fixtures for improvement of real estate, have a lien therefor and must file a verified account of the claim, within ninety days from the date of the last item, in the office of the clerk of the district court. Owner must sign written consent that lien may be filed if account not paid, and this consent and a notice of intention to claim a lien must be filed in the clerk's office by the contractor or material-man; if not filed, deeds and mortgages first recorded will be prior to the lien.

Limitations. An action by the State of North Dakota respecting real property must be commenced within forty years. An action for the recovery of real property or the possession thereof must be commenced within twenty years. Actions other than for the recovery of real property can only be commenced within the following periods after the cause of action shall have accrued: 1. Within ten years: an action upon a judgment or decree of any court in the United States, or of any state or territory within the United States, or on contract contained in conveyance or mortgage of real property. 2. Within six years: (a) actions upon a contract, obligation or liability, express or implied; (b) action upon a liability created by statute; (c) action for trespass upon real property; (d) action for taking, detaining or injuring any goods or chattels; (e) action for criminal conversion; (f) action for relief on ground of fraud; (g) action for foreclosure of mechanic's lien. 3. Within three years: an action against an officer for breach of official duty; an action for a penalty (three years;) action for death by injury; (two years.) 4. Within one year; all actions against a sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process. 5. All other actions for relief in ten years. No acknowledgment or promise is sufficient evidence of a new or continued contract whereby to take the case out of the operation of the statute of limitation, unless the same be in writing, signed by the party to be charged thereby; but this does not alter the effect any of payment of principal or interest.

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 an 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. 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. Husband and wife are both liable for necessities while living together. Women may be notaries 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. If no power of sale in the mortgage, it must be foreclosed by action. Mortgagor may redeem from foreclosure sale within one year on payment of the sum for which the property is sold, with 12 per cent interest thereon from date of sale, and also all taxes paid by the puchaser and interest thereon at 12 per cent. 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. (See Chattel Mortgages.) Real estate mortgage cannot be foreclosed by agent or attorney, without power of attorney authorizing foreclosure. Agents and attorneys must have power of attorney to foreclose, which power must be filed with register of deeds and pleaded when foreclosure is by action and before statutory attorney's fees are allowed attorney must file with register of deeds before sale, his affidavit that all said fees go solely to him, etc., and that he is a bona fide resident of North Dakota. (See also Chattel Mortgages.)

Negotiable Instruments. The law known as the negotiable instrument law, adopted in several States, is in effect.

Notes and Negotiable Instruments. Law of notes and negotiable instruments is substantially what is called the negotiable instrument law adopted by many States. Notes taken for patent rights, stallions, jackasses, lightning rods, patent medicines, or for cure of diseases must have written in red ink or stamped across face, "given for a lightning rod" or "given for a stallion," or other purposes as the case may be, and are non-negotiable.

Powers of Attorney. Powers of attorney to convey real estate must be acknowledged and recorded, and can only be revoked by an instrument in writing acknowledged and recorded in the same office in which the power of attorney is recorded.

Probate Law. (See Administration of Estates, Descent and Distribution of Property.) The county court has exclusive original jurisdiction of all probate matters. A special administrator may be appointed to preserve and collect the property of the estate when there is delay in the appointment of an executor or administrator. Claims must be presented within the time fixed by law, which is six months after notice if the estate exceeds $5,000, and four months if it does not, and all claims not properly presented and filed in the county court for adjustment are barred, but the court may, for good cause shown, allow a claim to be filed after the expiration of the time stated in the notice. The provision barring claims does not prevent the foreclosure of a mortgage or other lien on specific property by civil action, and does not prevent the foreclosure of the real estate mortgage by advertisement prior to the time the county court obtains jurisdiction of the estate of the mortgagor. If a claim is rejected, the claimant may bring suit in proper court according to amount within four months after date of rejection if then due or within three months after it becomes due, otherwise it is barred forever. No claim barred by the statute of limitation can be allowed. An executor or administrator, unless otherwise provided in the will, must give bond. Real and personal property is equally liable for the payment of the debts. The executor or administrator must take into his possession all the property of the decedent, real and personal, except the homestead and personal property not assets. Time for probating will, within six years after testator's death, or if not made known within that time, within one year after its discovery.

Protest. Notice of dishonor of a foreign bill of exchange can be given only by notice of protest. An inland bill of exchange is one drawn and payable within this State; all others are foreign. Notice of protest must be made by an instrument in writing, giving a literal copy of the bill of exchange with all that is written thereon, or annexing the original, stating the presentment and the manner in which it was made, the presence or absence of the drawee or acceptor, as the case may be; the refusal to accept or to pay, or the inability of the drawee to give a binding acceptance; and in case of refusal, the reason assigned, if any, and finally protesting against all parties to be charged. Protest must be made by a notary public, if with reasonable diligence one can be obtained, and if not, then by any reputable person in the presence of two witnesses. A protest for non-acceptance must be made in the city or town in which the bill is presented for acceptance, and a protest for non-payment in the city or town in which it is presented for payment. A protest must be noted on the day of the presentment, or on the next business day, but it may be written out at any time thereafter. Notice of protest must be made and given by the notary who makes the protest. If a foreign bill of exchange on its face waives protest, notice of dishonor may be given to any party thereto, except that if any indorser of such a bill expressly requires protest to be made, by a direction written on the bill at or before the indorsement, protest must be made, and notice thereof given to him and all subsequent indorsers. An irregular indorser is not considered joint maker and must be given notice of protest to be held.

Redemption. The period of redemption from mortgage foreclosure and judgment sales of real estate is one year, and from foreclosure of chattel mortgages five days, if notice of intention is given at the sale.

Replevin. Personal property may be replevied at the time the summons is issued, or at any time before answer. An undertaking approved by the sheriff must be given in double the value of the property.

Revision. The latest revision of the laws of the State is contained in the compiled Laws of 1913.

Service. (See Actions.)

Suits. (See Actions.)

Taxes become due and payable on the first day of December in each year. All unpaid taxes on real property become delinquent March 1st of each year. Unpaid taxes on personal property become due December 1st of each year and delinquent on the first day of March following. Personal property taxes draw interest at the rate of 1 per cent per month after they become delinquent. A penalty of 5 per cent attaches to personal property taxes as soon as they become delinquent. A penalty of 3 per cent is added to taxes on real property when they become delinquent, and also if unpaid an additional penalty of 3 per cent on the first day of April following, an additional penalty of 3 per cent on the first day of June following, and a further penalty of 5 per cent on the first day of November following. The county treasurer sells lands for unpaid taxes on the first Tuesday in December in each year. Lands sold for taxes may be redeemed within three years or at any time before execution of the deed of conveyance, by paying the amount mentioned in the certificate of sale, and interests thereon at the rate bid by purchaser at sale, together with a penalty of 5 per cent and all other taxes paid subsequent to said sale, and interest thereon at the rate of 2 per cent per month. Taxes and special assessments 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.

Testimony. (See Evidence.)

Transfer of Corporate Stocks. (See Corporations.)

Transfers of Capital Stock. Certificates of stock may be transferred by indorsement, by the signature of the holder or his attorney or legal representative, and delivery of the certificate, but is not valid except between the parties thereto until entered upon the books of the corporation.

Trust Companies. (See Guaranty Companies.)

Wills. Every person over the age of eighteen years, of sound mind, may, by last will, dispose of all his estate, real and personal. An holographic will is one 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. Every will, other than a nuncupative will, must be in writing. The words "writing" and "written" include "printing" and "printed." except in case of signatures, and where the words are used by way of contrast to printing. Writing may be made in any manner, except that when a person entitled to require the execution of a writing demands that it be made with ink, it must be so made. This applies to all instruments and papers. Every will, other than an holographic will and nuncupative will, must be executed and attested as follows: 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; 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 of sub-

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scribing or acknowledging the same, declare to the attesting witnesses that the instrument is his will; and 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. A witness to a written will must write, with his name, the place of residence; and a person who subscribes the testator's name, by his direction, must write his own name as a witness to the will. But a violation of this section does not affect the validity of the will. A will of real or personal property, or both, or a revocation thereof, made out of this State by a person not having his domicile in this State, is as valid, when executed according to the law of the place in which the same was made, or in which the testator was at the time domiciled, as if it were made in this State and according to the provisions of the laws of this State. No provisions made for proof of wills made out of the State different from those made within. 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. A will executed by an unmarried woman is revoked by her subsequent marriage, and is not revived by the death of her husband. A foreign will may be admitted to probate, upon the production of a copy of the same, and the probate thereof duly authenticated with a petition for letters, by the executor, or any other person interested in the will, to the county judge, and the same proceedings must be had for the settlement of the estate as in the probate of a domestic will.

SYNOPSIS OF

THE LAWS OF OHIO

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by Messrs. WHITE, JOHNSON, CANNON & NEFF Counselors at Law, Cleveland. (See Card in Attorneys' List.)

Acknowledgments. A deed, mortgage, or lease for more than three years, 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 clerk thereof, a county auditor, county surveyor, notary public, mayor, or justice of the peace. No separate examination of wife required. When the officer has a seal, same must be affixed. A notary public is required to have a seal. The acknowledgment must be written or printed on the instrument to be acknowledged, and not on a separate piece of paper, pasted on or attached to it. When executed, acknowledged, and proved out of this State, in accordance with the laws of the place where executed, as valid as if executed in this State.

Actions. There is but one form of action, known as a civil action, An action must be prosecuted in the name of the real party in interest If plaintiff or defendant other than an Ohio partnership, individual names must be given.

Administration of Decedent's Estates. The probate court has exclusive jurisdiction. Administration shall be granted by the probate court of the county where decedent was resident at the time of his death. If non-resident, in any county where there is an estate to be administered. If decedent dies intestate, administration granted, first, to husband or widow; second, next of kin, or if above renounce; third, to a creditor; or, fourth, such person as the court may deem competent. Executors and administrators required to give bond in amount double the value of personal estate. Executors may be excused from giving bond where will so directs. Inventory and appraisal of decedent's estate shall be filed in the probate court within thirty days after appointment. Claims against the estate of the deceased person must be filed with the administrator or executor for allowance, verified by the oath of claimant that the same is justly due, and that no off-sets exist against the same. (See Proof of Claims.) Claims should be filed within six (6) months from the appointment of the administrator or executor. Appraisers should make allowance to widow and children under fifteen years for a year's support. Debts are paid in the following order: 1. Expenses of funeral, of last sickness, and of administration. 2. Allowance to widow and children for year's support. 3. Debts given a preference under the laws of the United States. 4. Taxes, etc. 5. Wages due manual laborers accruing within previous twelve months, not exceeding $150. 6. All other debts pro rata. Executors and administrators must file an account within twelve (12) months after appointment, and every twelve months thereafter.

Affidavits. (See Oaths, etc.)

Aliens. An alien can hold and possess real estate as fully as a citizen. No person shall be deprived of inheriting by reason of ancestors being aliens.

Arbitration. Any controversy, except as to possession or title of land, may be arbitrated under bond to abide award. Legal process may issue to compel attendance, oath being administered by judge or justice. The award is written and signed by arbitrators or a majority and filed in court named in bond or in common pleas of county At next term after filing judgment may be entered on award. Award for other relief than money is enforceable by contempt. Award may be set aside for fraud, corruption, etc. Controversies before justices may be arbitrated, likewise trade disputes and disputes as to value of stock of dissenting stockholders in railroad companies when property sold or leased to another company.

Assignments. Voluntary assignments for the benefit of creditors may be made and are administered in the insolvency court, or probate court. Assignee must give bond, make inventory and appraisement and give notice. Creditors must file proved claims six months after notice. Assignee reports at expiration of eight months. Assignment to prefer creditor operates for benefit of all. Assignment with intent to hinder, etc., creditors void and operates for benefit of all. Preferred claims are taxes and labor.

Attachment in a civil action for the recovery of money may be had when defendant is a non-resident or a foreign corporation, excepting such as by compliance with the law therefor are exempted from attachment as such, 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, that the claim is for work, or labor, or necessities. 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. An attachment against a non-resident or a foreign corporation shall not be granted, on a claim other than a demand arising out of contract, or for causing death, or personal injury by a negligent or wrongful act. Garnishee process may be had in aid of attachment against any debtor of the defendant. If the answer of the garnishee is not satisfactory, the plaintiff may proceed against him in a civil action. 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: 1. 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. 2. Is about to make such sale, conveyance or disposition of his property with such fraudulent intent. 3. 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 existance of any of the grounds above mentioned

Banks. Under the State constitution the legislature cannot authorize banks of issue. Savings and loans associations, and trust companies are provided for by statute. Each such bank must report to the auditor of the State on oath semi-annually, which report must be published. Banking institutions may invest in. (a) Commercial Banks. 1. Personal or collateral securities. 2. Bonds of the United States or those for which the faith of the United States is pledged to provide payment of the interest and principal, including bonds of the District of Columbia; also bonds or other interest bearing obligations of any foreign government. 3. Bonds of interest bearing obligations of this or any other state of the United States, 4. Legally issued bonds or interest bearing obligztions of any city, village, county, township, school district, or other district, or political subdivision of this or any other state or territory of the United States or Canada. 5. Mortgage bonds or collateral trust bonds of any regularly incorporated company which has paid for at least four years dividends at the rate of at least four per cent on their capital stock. Such loan shall not exceed 80 per cent of the market or actual value of such bonds, the purchase of which has first been authorized by the directors. 6. Notes secured by mortgage on real estate, where the amount loaned thereon, inclusive of prior encumbrances, does no exceed 40 per cent of the value of the real estate if unimproved and if improved 60 per cent of its value including improvements, which shall be kept adequately insured. Not more than 50 per cent of the anount of paid in capital, surplus and deposit of such bank, at any time, shall be invested in such real estate securities.

(b) Savings Banks may invest in: 1. Any of the investments that can be made by Commercial Banks, except that they may loan 75 per cent of the amount of paid in capital, surplus and deposits on notes secured by mortgage on real estate. But all loans made upon personal security shall be upon notes with two or more signors or one or more endorsers, payable and to be paid at a time not exceeding six months from date. In the aggregate not exceeding 30 per cent of the capital, surplus and deposit shall be so invested. 2. Stocks which have paid dividends for five consecutive years next prior to the investment, bonds and promissory notes of corporations, when this is authorized by affirmative vote of board of directors or execution committee. No purchase or investment shall be made in stock of any other corporations organized or doing business under the same banking statutes of this state. 3. Promissory notes of individuals, firms or corporations when secured by a sufficient pledge of collateral, approved by the directors, provided such loan shall not exceed 20 per cent of its paid in capital stock and surplus.

If a bank combines business of a commercial and savings bank, it may loan up to 60 per cent of its capital, surplus and deposit upon real estate security, after the adoption of a general resolution authorizing it by a two-thirds vote of the board of directors. Such loans shall be upon real estate situated in this state or in states immediately adjacent thereto.

Chattel Mortgages. Unless possession is given chattel mortgage is void as to creditors unless filed with county recorder. Oath of mortgagee must be attached showing amount due. Mortgage must be re-filed within thirty days before expiration of three years of original filing with new affidavit. It is a criminal offense to sell, secrete, or remove mortgaged property.

Conditional Sales. Where personal property is sold to be paid for in installments or delivered under conditional sale, purchase is void as to creditors unless instrument is executed, verified and filed as required of chattel mortgage. Vendor cannot maintain possessory action without returning at least 50 per cent of amount paid where it exceeds 25 per cent of the contract price, anything in the contract to the contrary notwithstanding and whether such condition be expressed in the contract or not unless such property has been broken or actually damaged, when a reasonable compensation for such breakage or damage is allowed excepting where property consists of machinery, equipment and supplies for railroads and contractors, for manufacturing brick, cement, and tiling, and for quarrying and mining purposes, in which cases no sums need be returned.

Consignments. A carrier, warehouse man, factor, storage, forwarding or commission merchant, or his clerk, agent, or employe, who, with intent to defraud, in any way disposes or converts to his own use any bill of lading, custom-house permit, or warehouse keeper's receipt entrusted to or possessed by him, or any property entrusted or consigned to him, or the proceeds of the sale of such property, or the profits, product, or result thereof, shall be imprisoned in the penitentiary.

Corporations. (Domestic.) Domestic corporations are formed under general laws and for any purpose except professional business. Articles are filed with secretary of state and must show name, location and purpose of corporation, amount of capital stock, number of shares, must be signed by five persons, three of whom are residents of Ohio, must be acknowledged before officer whose official character is certified to by clerk of common pleas court. Corporations are for profit or not for profit. If for profit, must have not less than five or more than thirty directors, of whom the majority must be citizens of this state and each a holder of stock. Stock is personal property. Capital stock may be increased or diminished. Fee for incorporation one-tenth of one per cent of stock. Trustees of corporation not for profit are personally liable for debts. Insurance and certain other companies are incorporated under special laws. Reports must be made to secretary of state annually in May, and fee of three-twentieths of one per cent on outstanding capital be paid, in no case less than $10.

Foreign Corporations. Foreign corporations owning or using a part or all of its capital or plant in Ohio, except for banking or insurance must have certificates from secretary of state before doing business. To get certificate corporation must file sworn copy of charter, state amount of capital stock, business, and purposes of corporation, and fix place in Ohio for its office and designate person upon whom process can be served. Fee varies from $15 to $50 according to capital stock. Failure to get certificate bars suit. Foreign corporations having principal place of business in Ohio shall file statement with secretary of state showing amount of capital stock, and shall pay annual fee of one-tenth of one per cent upon the proportion of its authorized capital stock represented by property owned and used and business transacted in this state, but not less than $10 in any case. Non-compliance bars suit and subjects corporations to penalties. Upon compliance corporations are not subject to attachment for non-residence. Annually in July foreign corporations

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shall report to the secretary of state and pay fee of three-twentieths of one percent upon capital stock represented by its property in Ohio, in no case less than $10.

Costs. No costs allowed to successful party as and for attorney's fees.

Courts. Supreme Court.—Court of last resort. A court of error except in cases where judgment of court of appeals is final. Has original jurisdiction in habeas corpus, mandamus, and quo warranto. Court of Appeals.—State is divided into eight districts. Like original jurisdiction as supreme court and appellate jurisdiction and jurisdiction in error from the common pleas court. Common Pleas Court.—Original jurisdiction in all civil cases where amount in dispute is more than $100, and actions involving title to real estate. Appellate jurisdiction from inferior courts and county commissioners in proper county. Probate Courts.—Original jurisdiction in control of estates of insolvents, deceased persons, minors, lunatics, impeciles, and habitual drunkards; probating wills and settlement of estates; original jurisdiction in all matters of guardianship, inquest of lunacy; concurrent jurisdiction with common pleas court in appropriation proceedings. Justices of the Peace.—Exclusive original jurisdiction in amounts less than $100; concurrent jurisdiction with common pleas court in amount from $100 to $300, except in cases involving title to real estate.

Municipal courts for Cleveland, Cincinnati, Columbus, Dayton, Hamilton, and Youngstown have jurisdiction in their respective cities concurrent with justice courts and in certain cases concurrent with common pleas courts. Designed to supersede justice courts and relieve common pleas of controversies of $1,000 and less, the amount varying in the different cities.

Deeds, Mortgages, etc. All deeds or instruments conveying an interest in real property shall be signed by the grantor in the presence of two witnesses, and such signing shall be acknowledged before a judge of a court of record of 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 of paper, subscribe his name thereto, and affix his official seal if he have one. No separate examination of the wife is required. Deeds and instruments conveying an interest in real estate must be recorded in the office of the recorder of the county where the land is located, and until so recorded or filed for record, are deemed fraudulent, as to bona fide purchasers without notice. Mortgages on real estate take effect from time of delivery for record. Mortgage first presented must be first recorded. Private seals have been abolished in this State.

Depositions. Depositions can only be used in the following cases 1. When the witness is absent from, or is a non-resident of the county. 2. When witness is deceased, or unable to attend the trial. 3. Testimony upon a motion, where oral examination is not required. As soon as service is had in a case, either party may begin taking depositions. Written notice of the intention to take depositions must be given the opposite party, specifying the court, parties, time and place of taking, and if the testimony of a party is to be taken, the notice must so specify. Sufficient time must be given the adverse party to reach the place of taking by the usual routes, and also one day for preparation, exclusive of the day of service. The taking of depositions must be continued from one business day to the next. The deposition should be written in the presence of the officer taking the same, and when completed, must be read over by the witness, and by him subscribed, and the officer should then conclude the deposition by the following certificate:

State of .....
.....County. } ss.

....., a ..... in and for the county and State above named, duly commissioned and qualified, do hereby certify that the above named ..... was by me first severally sworn ..... to testify the truth, the whole truth, and nothing but the truth, and that the deposition by ..... subscribed as above set forth, w .. reduced to writing by ....., and w .. subscribed by the said witness ..... respectively in my presence, and w .. continued from day to day, as above set forth, that said deposition w .. taken at the time and place specified in the notice hereto attached, and that I am not counsel, attorney, or relative of either party, or otherwise interested in the event of this suit.

In testimony whereof, I have hereunto set my hand and official seal, this ..... day of ....., A. D. 19...

[Seal.] (Signature and official title.)

Depositions out of the State may be taken before a judge, justice, or chancellor of any court of record, justice of the peace, notary public, mayor, or chief magistrate of any city or town corporate, a commissioner appointed by the governor of the State, or any person authorized by special commission.

Descent and Distribution. Any real estate which came to decedent by descent or devise or deed of gift from any ancestor descends as follows: 1. To the children or legal representatives. 2. If no such children or legal representatives, then to husband and wife for life. 3. If no husband or wife, to the brothers and sisters of the blood of the ancestor from whom the estate came. 4. If no such brothers and sisters, then to the ancestor, if living, from whom the estate came. 5. If ancestor be deceased, then to his children; if no children, then to the relict of such ancestor; if none such, then to the brothers and sisters of such ancestor; if none such, then to the brothers and sisters of the half-blood of intestate. 6. If no half-brothers of intestate, then to the next of kin of the intestate of the blood of the ancestor. When the relict of a deceased husband or wife shall die intestate, and without issue, possessed of any real estate or personal property which came by purchase or from any former deceased husband or wife by deed or gift, devise, or by bequest, then such estate shall pass to and vest in the children of said deceased husband or wife, or their legal representatives. If there are no children, then such estate shall pass one-half to the brothers and sisters of such intestate, and one-half to the brothers and sisters of such deceased husband or wife from which such estate came. If the estate came not by descent, devise, or deed of gift, it descends as follows: 1. To children. 2. If no children, to husband or wife. 3. If no husband or wife, then to brothers and sisters of the whole blood. 4. If none such, then to brothers and sisters of the half-blood. 5. If none such, then to the father, if living; if not, then to the mother. 6. If these be dead, then to the next of kin. The personal property of a deceased intestate shall be distributed as under the last paragraph, except such right as the widow or widower may have.

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 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 free-holders, 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 head of family and widow may hold exempt from execution, attachments or sale, wearing apparel, beds and furniture, certain cattle, certain religious books, family provisions, sewing machines, tools and implements worth $100, personal earnings for three months. Every unmarried woman may hold exempt wearing apparel, sewing and knitting machines, religious books and beneficiary funds not exceeding $50.00.

Regalia, etc., of benevolent societies is exempt. Property of municipality or fire companies for extinguishing fires is exempt, but owner may mortgage. Husband and wife living together or widower living with unmarried daughter or minor son, and every unmarried female having custody of minor child, if resident of Ohio and not owner of homestead, may hold on selection $500 worth of personal property exempt in lieu of homestead in addition to special exemptions.

Guarantee Companies. The law now provides that guarantee companies complying by deposit of securities are accepted on statutory bonds.

Holidays. Every Sunday and the first Monday in September are holidays for all purposes, also every Saturday afternoon from twelve o'clock noon except as to notes, checks, etc. For holidays as to presenting, etc., of commercial paper, see Notes and Bills.

Homestead. Husband and wife living together, widow or widower living with unmarried daughter, or unmarried minor son may hold exempt family homestead not exceeding $1,000 in value. Wife may make demand if husband refuses, but neither can demand if other has a homestead. Where a homestead is sold for lien, owner may exempt $500 out of excess in lieu of homestead.

Interest. The legal rate is 6 per cent. Parties may contract in writing for 8 per cent. No penalty is attached for the violation of the law. If a contract is made for a higher rate than 8 per cent, the contract as to interest is void, and the recovery is limited to the principal sum and 6 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 from the rendition of the judgment, said judgment shall not operate to the prejudice of any other bona fide judgment creditor. Unless execution is issued within five years, the judgment becomes dormant and ceases to operate as a lien. A dormant judgment may be revived on motion, or by action within twenty-one years.

Liens. Every person who does work or labor, or furnishes machinery, material or fuel, for constructing, altering or repairing a boat, vessel or other water craft, or for erecting, altering, repairing or removing a house, mill, manufactory, or any furnace or furnace material therein, or other building, appurtenances, fixture, bridge or other structure, or for digging, drilling, boring, etc., any oil, gas or other well, or for altering, repairing or constructing any oil derrick, oil tank, oil or gas pipe line, or furnishing tile for the drainage of any lot or land, by virtue of a contract, express or implied, with the owner, part owner, or lessee, of any interest in real estate, or the authorized agent of the owner, and every person who shall, as subcontractor, laborer or material man perform any labor or furnish machinery, materials or fuel to either original or principal contractor, or any subcontractor in the carrying forward, performing or completing such contract, shall have a lien upon the structure, etc., and upon the land whereon the same is located, upon filing in the office of the Recorder in the county in which said labor was performed, or material was furnished, a verified statement showing the amount due over and above all legal off-sets, a description of the property to be charged with the lien, the name of the person for whom such machinery, etc., were furnished and labor performed, and of the owner, part owner or lessee, if known. Said account so verified must be filed within sixty days from the date on which the last machinery, etc., shall have been furnished, or the last labor performed.

The original contractor shall, whenever any payment of money becomes due from the owner, or whenever he desires to draw any money from the owner, under such contract, or upon written demand of any mortgagee, make out and give to such owner, etc., a statement under oath showing the name of every subcontractor or laborer in his employ, and of every person furnishing machinery, labor, material, etc., which statement shall be accompanied by a certificate signed by every person furnishing machinery, material or fuel to him., and shall also deliver to such owner, etc., similar sworn statements from every subcontractor accompanied by like certificates. Until such statements are furnished the owner, contractor, subcontractor, etc. shall have no right of action against the owner or lien, and any payments made by the owner, before such statements are made, or without retaining sufficient money to pay such subcontractors, etc., as shown by said statements, shall be considered illegal and made in violation of the rights of the person intended to be benefited, and the rights of such material men, etc., to a lien shall not be effected thereby.

The liens of subcontractors shall be superior to any already taken by the principal contractor, but have no priority among themselves, except liens filed by persons performing manual labor shall have priority to the extent of the labor performed during the thirty days immediately preceding the date of the performance of the last labor.

The owner, part owner, etc. shall not be liable to the subcontractor, material men or laborers for any greater amount than he contracted to pay the original contractor, and shall be entitled to set off any damages which he may sustain by reason of any failure or omission in the performance of such contract.

Said lien shall remain six years from and after the date of the filing thereof, but if action is brought within that time to enforce the lien, the same shall continue in force until final adjudication.

Liens are also given to persons who furnish material for the construction of roads, sidewalks, ditches, drains, etc.

Limitations. Within twenty-one years: An action for the recovery of the title or possession of real estate or on a judgment. Within fifteen years: An action upon an agreement or promise in writing. Within ten years: An action upon an official bond or undertaking of an assignee, trustee, or administrator. Within six years: An action upon a contract not in writing either express or implied. Within four years: Actions for trespass, recovery of personal property and relief on the ground of fraud. Within one year: Actions for libel, slander, malicious prosecution; actions upon a statute for penalty or forfeiture. An action may be taken out of the statute by part payment or an acknowledgment or promise in writing.

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Married Women. Feme covert may sue and be sued as if sole, and husband shall join only when cause of action is joint. Like proceedings shall be had and judgment rendered as though she were sole. Any interests, legal or equitable, in realty or personalty belonging to women at marriage, or which are acquired by her during coverture becomes her separate property under her sole control, not to be taken for debts of husband or conveyed or incumbered by him, and to be conveyed by her as if sole, (except as to dower of husband). Neither husband nor wife, as such, is answerable for the actions of the other

Minors. The age of majority for males is twenty-one years; females eighteen years.

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. (See Chattel Mortgages.)

Notes and Bills of Exchange. All bonds, notes, bills, and checks payable at a day or after sight, are due and payable on the day mentioned without days of grace. When the day of maturity falls upon Sunday or a legal holiday, the instrument is payable on the next succeeding business day. Instruments falling due on Saturday are to be presented for payment on the next succeeeding business day, except that instrument payable on demand may, at the option of the holder, be presented for payment before 12 o'clock noon on Saturday when that entire day is not a holiday. The 1st day of January, the 4th day of July, the 25th day of December, the 22d day of February, the 30th day of May, first Monday of September of each year, the 12th day of October, and fast or thanksgiving days or any day which may hereafter be made a legal holiday, shall as to payment, presentment, or protest be considered as the first days of the week. When holidays fall on Sunday the following Monday shall be considered as the first day of the week.

Oaths. An oath required by law may be taken before the following officers: Within State—A judge or clerk of supreme court or court of common pleas a probate judge, justice of the peace, notary public, mayor. Without the State—By any officer authorized by law to take a deposition in such State.

Powers of Attorney. A power of attorney for the conveyance, mortgage, or lease of any estate or interest in real property, shall be signed, attested, acknowledged, and certified in the same manner as deeds, mortgages, and leases.

Practice. Practice is regulated by the code of civil procedure.

Proof of Claims. All claims against an assignee or administrator must be verified by oath of the claimant, his agent or attorney that the same is just and lawful, and that the said amount is now due and unpaid; that there are no set-offs or counter claims, and what if any security the claimant holds. A default judgment may be taken before a justice of the peace on an account thus verified.

Replevin. An order for the delivery of specific personal property shall be issued upon the filing of an affidavit of plaintiff, his agent or attorney, showing: 1. A description of the property claimed. 2. That the plaintiff is the owner of the property, or has an interest therein, stating the facts. 3. That the property is wrongfully detained by the defendant. 4. That it was not taken on process issued against the plaintiff, or if so taken, that it is exempt from execution. An order for the delivery shall thereupon issue, commanding the officer to take possession of the property. The sheriff shall then take the property, and cause the same to be appraised. The sheriff shall deliver the property so taken to plaintiff after the expiration of five days, upon plaintiff's executing an undertaking to the defendant in double the value of the property taken; that plaintiff will duly prosecute the action and return the property, or pay the value so appraised; provided, however, that the defendant may at any time within five days execute an undertaking to the plaintiff that he shall return the property, or pay the value so appraised, together with costs, etc., whereupon the property shall be returned to the defendant by the officer. If the property replevined consists of heir-looms, personal keepsakes, or other articles of like nature, the sheriff shall retain and safely keep the same, subject to the order of the court, if the defendant within ten days serve written notice that he will demand the return of the same upon final hearing of the case. The action of replevin may be maintained before a justice of the peace under proceedings, as above stated, when the appraised, value of the property is $300 or less. If the appraised value of the property exceed $300, he shall then certify his proceedings to the court of common pleas.

Sales of Goods. Same as other states.

Sales in Bulk. Sales in bulk, otherwise than in the ordinary course of trade, shall be void as against creditors of the seller unless the purchaser demands and receives from the seller a written list, certified under oath, containing the names, addresses and amounts due each of the seller's creditors and unless the purchaser shall at least five days before taking possession of said goods or paying therefor notify personally or by registered mail, every creditor whose name appears on said list or of whom the purchaser has knowledge, of the proposed sale, the price terms and conditions thereof. Any purchaser not conforming to these terms shall at any time within ninety days after such sale, upon application of any of the creditors of the seller, become a trustee and be held accountable to such creditors for all such goods.

Service. Service may be made by publication for non-residents of State.

Stay of Execution. No stay of execution is allowed, except on judgments rendered by justices of the peace, and where cases are taken from a lower to a higher court. The stay in a justice's court is as follows: On any judgment for $5 and under, sixty days; exceeding $5 and under $20, ninety days; $20 and under $50, one hundred and fifty days; any judgment for $50 and upwards, two hundred and forty days.

Supplementary Proceedings. Such proceedings in this State are known by the name of proceedings in aid of execution, wherein a debtor, as well as persons supposed to be indebted to him, may be summoned before a referee, and an examination had as to his property and rights in action, which if found may be subjected to the plaintiff's claim.

Taxes. Taxes on real estate become a lien on the day preceding the first Monday in April. Taxes are due on December 20th, of each year, but the party charged, may, at his option pay one-half on that date and the remainder on or before June 20th, next. If any delinquent tax of the previous year, and half of the current year's tax is not paid on or before December 20th, the property is advertised by the county treasurer and sold to the person who will pay all the taxes and penalty then due. The owner can redeem within two years after such sale by paying the amount for which the property was sold, all subsequent taxes, with interest and a penalty of 15 per cent, if redeemed within one year, or a penalty of 25 per cent if not redeemed until the second year. Land offered for sale and not sold is forfeited to the State, and is offered each two years until sold. If all the taxes and penalties are paid before the sale, the State relinquishes its claim. If sold, the owner may redeem at any time within six months after sale, by paying the amount of sale and costs, together with 50 per cent penalty thereon. There is a direct and collateral succession tax.

Warehouse Receipts. Same as other states.

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. No legatee or devisee under the will should be a witness. Verbal wills made in the last sickness will be valid in respect to personal estate if reduced to writing and subscribed by two competent disinterested witnesses within ten days after the speaking of the testamentary words, and offered for probate within six months after the death of the testator. Contests of wills must be begun within one year after probate, except by persons under disability. Every will when admitted to probate must be filed in the office of the probate judge. Wills executed, proved, and allowed out of the State may be admitted to record in this State under proper proceedings in the probate court.

SYNOPSIS OF

THE LAWS OF OKLAHOMA

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by GUSTAVE A. ERIXON, Attorney at Law, Guthrie.
(See Card in Attorneys' List)

Accounts. In all civil actions, allegations of the correctness of any account, duly verified by the affidavit of the party, his agent or attorney, shall be taken as true, unless the denial of the same be verified by the affidavit of the party, his agent or attorney.

Acknowledgments. Within the State instruments may be acknowledged before any justice of the peace, notary public, county clerk, clerk of the district court or county judge. Outside of the State, and within United States, before a notary public, clerk of a court of record, commissioner of deeds duly appointed by the governor of the State for the county, state or territory where the same is taken. Without the United States, before any court of record or clerk of such court or before any consul of the United States.

Administration of Estates. County judge has exclusive jurisdiction. (See Wills.) Notice to creditors to present claims must be given by posting in three public places in county and by publication in a newspaper for two weeks. Claims not presented within four months from date of notice are barred. The debts of the estate must be paid in the following order: 1. Funeral expenses. 2. Expenses of last sickness. 3. Funds necessary for support of family for ninety days. 4. All taxes. 5. Debts preferred under the law. 6. Judgments rendered against decedent in lifetime, which are liens, and mortgages in order of their dates. 7. Demands or claims presented to administrator for allowance, or proved within four months after notice of his appointment. 8. All other demands. Suits may be maintained and defended by foreign administrators.

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.

Attachment may issue at or after commencement of suit, on grounds of fraud or non-residence. May also issue on debt before due, when debtor is about to dispose of his property with fraudulent intent, or has done so. Bond required in sum not exceeding double amount of claim and costs, and reasonable attorney's fee.

Banks may be organized by three or more persons, a majority of whom must reside in the State. Building and furniture must not exceed one-third of the capital in value. Capital stock must be fully paid in and must not be less than $10,000 in towns having population of 500 or less; $15,000 in towns of 500 to 1,500 population; $25,000 in cities from 1,500 to 6,000 population; $50,000 in cities from 6,000 to 20,000 population; $100,000 in cities over 20,000 population. Full amount of capital stock must be subscribed before charter is filed. Capital stock must be divided in shares of not less than $100, and all subscriptions must be paid in cash. Capital stock cannot be increased until original capital is fully paid in. Bank may be dissolved by proceeding in district court. Board of directors shall be not less than three, nor more than thirteen in number. Officers of bank selected by board of directors. All officers required to give good and sufficient bond, to be approved by board. Board must meet twice each year to examine books, securities, etc., and must forward certified copy of report to bank commissioner within ten days. Shareholders additionally liable for amount of stock owned, and no more. Banks must have on hand available funds as follows: In towns of less than 2,500 population 20 per cent of deposits. In towns over 2,500 population 25 per cent. Must not borrow in excess of 20 per cent of capital stock paid in. Must report to bank commissioner four times a year, or oftener.

Commissioner may revoke authority of any bank refusing investigation. Cannot hold real estate except for place of business, or when taken in satisfaction of debt, in which case must not be held for more than five years. Shares of stock deemed personal property, but cannot be transferred on books while registered holder indebted to bank. Cannot loan to stockholders on stock, but may receive same as additional security for prior debt. Making false report deemed perjury.

The law provides for a depositor's guarantee fund in substance as follows: There is levied against the capital stock of each state bank, an annual assessment equal to one-fifth of one per cent of its average daily deposits. The banking board is authorized to make an additional special assessment of one-fifth of one per cent during the fiscal years, ending June 30, 1914, 1915, 1916. The fund thus created must be used solely for the purpose of liquidating deposits of failed banks and retiring warrants provided for in the act. The assessment is due and payable on the 11th of March of each year, and is based upon the average deposits for the proceeding year. Assessments are pay-

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able by cashiers checks, which are held by the banking board until it is necessary to collect them. When the fund amounts to as much as 2 per cent of the average daily deposits of all the banks over and above all certificates of indebtedness or other obligation chargeable against the fund, the assessments shall cease, but it is made the duty of the banking board to maintain the fund to the amount of 2 per cent, as aforesaid, by making assessments from time to time as may be necessary, not exceeding one-fifth of one per cent at any one time. If at any time the fund is not sufficient to pay depositors of failed banks or other indebtedness chargable against the fund, the banking board is authorized to issue guarantee fund warrants, bearing 6 per cent interest, and constituting a first lien upon the fund when collected, also, a lien upon the capital stock, surplus, and undivided profits of each bank to the extent of the liability of any such bank to the fund. The banking board is authorized to dispose of such warrants at not less than par value. Warrants are payable serially in the order of their issuance. No corporation doing a trust business is liable for assessments to create or maintain the depositor's guarantee fund.

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 twenty-one, and females under eighteen years of age. Provisions of the statute of frauds are in force. (See Holidays, Judgments.)

Conveyances. Husband and wife may own and convey property separately without the other joining, except homestead. In case of conveyance or mortgage of, or contract relating to homestead, the same may be avoided by one not joining in instrument. Conveyance valid between parties without being recorded, but no deed, mortgage, contract, bond, or lease (for more than one year) is valid against third persons unless recorded, except in case of actual notice. Deed intended as security is a mortgage, and must be recorded and foreclosed as such. Power of attorney must be executed and acknowledged same as deed, and also recorded. To admit to record, acknowledgment indispensable, in case of instruments affecting real estate. Statute prescribes forms of deeds and mortgages and acknowledgments, which should be complied with in word or substance. (For sales of merchandise, see Sales.)

Corporations may be public or private, and formed by filing articles of incorporation with the secretary of state, and compliance with statute. 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, and in mining, manufacturing, and industrial corporations they are jointly and severally liable for labor debts. Capital stock may be increased by compliance with law, but excess of stock over charter limit is invalid. No corporation of any other state or territory may transact business, or hold and dispose of property in this State 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 state, 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 state and the agent referred to shall reside in the capital of the State of Oklahoma. Must also file with corporation commission list of officers and stockholders with addresses and amount of stock held by each, and name of agent for service.

All corporations, foreign or domestic, doing business in State are required to file in office of corporation commissioner list of stockholders, officers and directors, with residence and post-office address, and amount of stock held by each, and must designate an agent residing in State upon whom process may be served. Mining and public service corporations required to submit all labor differences to arbitration. (See Mines.)

Corporations (except mining) must pay annual license tax as follows: Domestic corporations, 50 cents for each $1,000 of its authorized capital. Foreign corporations, $1.00 on each $1,000 of its capital employed in business in State. License obtained from State Corporation Commission. Statement of business done, condition, etc., must be filed annually with Corporation Commission. Mining corporations pay annual gross revenue tax upon output of one-half of 1 per cent upon quarterly statements in lieu of above: Oil and gas corporations required to pay three-fourths of 1 per cent.

Courts. The courts of the State are: Supreme, district, superior county, and justice of the peace. Supreme court has appellate jurisdiction. Justice of the peace has jurisdiction of civil actions arising upon contract involving amount not in excess of $200. County court has jurisdiction of all probate matters, and civil actions, up to $1,000. But neither the county not justice's court has jurisdiction of actions upon real estate contracts, libel and slander, misconduct in office, or malicious prosecution. The district court and the superior court have general jurisdiction. Terms of the district court are fixed by the supreme court. County court has a regular term every three months, commencing first Monday in January, April, July and October in each year. Justice court is always in session.

Days of Grace. No days of grace on negotiable instruments. See Notes and Bills of Exchange.)

Deeds. See Conveyances.)

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.

Descent and Distribution of Property. (See Wills.) Property, not disposed of by will, descends as follows: 1. If decedent leave a surviving husband or wife, and one child, in equal shares to surviving husband or wife, and child, or issue of child; if more than one child, then one-third to surviving husband or wife, and in equal shares to children, or issue. But if there be no child of the decedent living at his death, the remainder goes to all his lineal descendants. If decedent leave no surviving husband or wife, but leaves issue, the whole estate descends equally to children, or issue thereof. 2. If decedent leave no issue, estate goes in equal shares to surviving husband or wife, and to decedent's father; if no father, then one-half goes in equal shares to brothers and sisters of decedent or their children. If he leave a mother, also, she takes an equal share with brothers and sisters. If decedent leave no issue, nor husband nor wife, the estate must go to the father. 3. If there be no issue, nor husband, nor wife, nor father, nor mother, then in equal shares to brothers and sisters, or their children; if a mother survive, she takes an equal share with the brothers and sisters. 4. If decedent leave no issue, nor husband, nor wife, nor father, and no brother or sister is living at the time of his death, the estate goes to his mother, to the exclusion of the issue, if any, of deceased brothers and sisters. 5. Other more remote descents particularly set forth. Dower and curtesy are abolished. Aliens may take in all cases, by succession as well as citizens. If no one capable of succeeding to estate, same escheats to the State.

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. Statutory provisions for subjecting debtor's property by proceedings supplemental to execution.

Exemptions. To the head of a family, not exceeding 160 acres in one or more parcels to be selected by the owner, including improvements; in city or town, not more than one acre in one continuous tract, not exceeding $5,000 in value; 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; one 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; 75 per cent of current wages and earnings for personal and professional services within last ninety days. (The issuance of any process to hold more than the 25 per cent which is not exempt is forbidden under penalty of forfeiture of the debt.) 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 State, or who has absconded, taking with him his family. To a single person: Lots or lot 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 from execution or attachment for wages of clerk, mechanic, laborer, or servant. All pension money is exempt.

Foreign Corporations. Before they shall transact business, they must appoint an agent who is a resident of the capital of the State, on whom process may be served and file a copy of appointment with the Secretary of State. Copy of articles must also be recorded with the Secretary. Must file statement with corporation commission showing stock holders, officers, amount of business done, etc. Suit may be brought in county in which the cause of action arose. Contracts of corporations are void as to corporation, if law not complied with and no suit can be maintained in the state courts by a corporation which has not complied with the law. For issuing license to a foreign corporation the State charges a fee of one-tenth of 1 per cent of the amount of capital stock. There is also an annual license fee of $1.00 on each $1,000.00 of the capital stock employed in business in the State. This fee must be paid on or before the first of August. In July, each corporation must file with the Corporation Commission, statement, under oath, giving detailed information on blanks furnished by the Commission. Penalty of $100 per day for failure or refusal to file statement and pay fees. Such corporations are required, upon the order of any court where action is pending, to appear at a time and place fixed, for examination of its officers and agents, and inspection of its books, etc.

Mining companies are required to pay an annual gross revenue tax of one-half of 1 per cent of the gross receipts except oil and natural gas companies upon which tax is three-fourths of 1 per cent. Conpanies required to pay gross revenue tax are not required to pay the annual license tax, one being in lieu of the other.

Foreign Judgments. They are basis of suit as elsewhere, but limitation statute is one year.

Garnishment. May issue 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, before order will issue, statutory undertaking must be given, except in cases against non-residents. Bond is required in District, Superior and County Courts but not in Justice courts.

Holidays. Holidays are every Sunday, first day of January, twenty-second day of February, fourth day of July, twenty-fifth day of December, thirtieth day of May, days upon which elections are held throughout State, and days appointed by president, or governor of state for a public fast, thanksgiving, or holiday. If first day of January, twenty-second day of February, fourth day of July, or twenty-fifth day of December falls upon a Sunday, the following Monday is a holiday. Acts of a secular nature, appointed by law or contract to be performed on a holiday, may be performed on the next business day, with full effect.

Interest. Maximum rate is 10 per cent. Usury forfeits all interest, and if usurious interest be paid, double the amount so paid may be recovered by suit inside of two years. In absence of stipulation, legal rate is 6 per cent from maturity.

Judgments. Judgments are liens against real estate for five years from time entered on docket. 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. 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 State, 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. Interest on judgments is 6 per cent per annum, but in case of contract, rate is same as contract, up to 10 per cent.

Liens. (See Mortgages.) Also allowed in case of labor upon personal property, but dependent upon possession; and to vendors of real estate for unpaid purchase price. Mechanics' liens allowed. In case of contractor, statement must be filed in four months, subcontractors, sixty days. Suit must be commenced in one year from time of filing statement, or from maturity of note given for the debt.

Limitations. Civil actions, other than for the recovery of real property, can only be brought within the following periods, after the cause of action shall have accrued, and not afterwards: 1. Within five years: An action upon any contract, agreement, or promise in writing. 2. Within three years: An action upon a contract not in writing, express or implied; an action upon a liability created by statute other than a forfeiture or penalty. 3. Within two years: An action for trespass upon real property; an action for taking, detaining, or injuring personal property, including actions for the specific recovery of personal property; an action for injury to the rights of another, not arising on contract, and not hereinafter enumer-

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ated; an action for relief on the ground of fraud—the cause of action in such case shall not be deemed to have accrued until the discovery of the fraud. 4. Within one year: An action on a foreign judgment; an action for libel, slander, assault, battery, malicious prosecution, or false imprisonment; an action upon a statute for penalty or forfeiture, except where the statute imposing it prescribes a different limitation. 5. An action upon the official bond or undertaking of an executor, administrator, guardian, sheriff, or any other officer, or upon the bond or undertaking given in attachment, injunction, arrest, or in any case whatever required by the statute, can only be brought within five years after the cause of action shall have accrued. 6. An action for relief, not hereinbefore provided for, can only be brought within five years after the cause of action shall have accrued.

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 acknowledged before notary public, or 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 purchasers 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, and can only be foreclosed by action in court.

Notes and Bills of Exchange. Negotiable instruments are defined by Chapter sixty-nine (69) of Snyders compiled laws of Oklahoma, uniform negotiable instrument law is in force. Form of Negotiable Instrument. An instrument to be negotiable must conform to the following requirements: 1. It must be in writing and signed by the maker or drawer; 2. Must contain an unconditional promise or order to pay a sum certain in money; 3. Must be payable on demand, or at a fixed or determinable future time; 4. Must be payable to order, or to bearer; and 5, where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty. Its negotiability is not affected by a provision which authorizes the sale of collateral securities in case the instrument be not paid at maturity, or authorizes a confession of judgment if the instrument be not paid at maturity; or waives the benefit of any law intended for the advantage or the protection of the obligor; or gives the holder an election to require something to be done in lieu of payment of money. It is not necessary that paper should be made payable at a bank or any fixed place. To charge indorser, notice of non-payment must at once be given to him. The time of maturity is regulated as follows; Time of Maturity. Every negotiable instrument is payable at the time fixed therein without grace. When the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day. Instruments falling due or becoming payable on Saturday are to be presented for payment on the next succeeding business day, except that instruments payable on demand may at the option of the holder, be presented for payment before 12 o'clock, noon, on Saturday, when that entire day is not a holiday." (See Holidays.)

Partnership. May be general or special. If names not disclosed in style, certificate must be filed and advertisement made. Special regulations concerning special partnership limiting liability to amount of contribution to company, except in case of violation of statute.

Power of Attorney. The power of attorney in fact, for the conveyance of real estate, shall be executed and acknowledged same as acknowledgment of other conveyances of real estate. No deed, executed by virtue of such power, shall be received for record unless the power of attorney under which it is executed is, or has been, filed for record in the same office.

Protest. (See Notes and Bills of Exchange.)

Records kept by clerks of all courts of proceedings therein. Register of deeds keeps record of all instruments affecting real and personal property.

Redemption. No redemption after sale of real estate by sheriff, pursuant to decree of court. In case of tax sale, two years are allowed from time of sale, after which tax deed issues. Limitation of action to set aside tax deed, one year.

Replevin. Plaintiff must file statutory affidavit and bond in not less than double value of property. Defendant in twenty-four hours may give bond and retain possession.

Sales. Sales of stocks of merchandise other than in the ordinary course of trade are fraudulent and void as against creditors unless five days before sale the seller and purchaser make a full inventory of stock and cost prices, and unless the purchaser ten days before sale, in good faith, demand and obtain written answers, of the seller as to names and places of residence of the creditors and the amounts owing them, and unless the purchaser retain such inventory and answers six months after the sale, and unless ten days before the sale the seller notify all creditors by registered mail. Failure of the seller to truly answer such questions, punishable as a misdemeanor with fine not less than $300 nor more than $500, or by imprisonment in county jail not exceeding thirty days, or both, at the discretion of the court. These regulations do not apply to sales by executors, administrators, receivers or public officers.

Suits. (See Courts.)

Taxes. Due on 1st day of December; delinquent if first half not paid by January 1st, and draw penalty of 18 per cent; second half due June 15th. Are perpetual lien on real estate. Personal taxes become lien on real estate after two years.

Testimony. (See Evidence.)

Transfer of Corporation Stock. Subject to regulation of corporation, except in case of non-resident owner, affidavit or bond may be required by officers for protection.

Trust Companies. Provision for organization by three or more persons. General authority conferred to hold and administer funds, to perform official acts, make guaranties, loan money, negotiable bonds, etc. Amount of capital stock must be not less than $200,000, one-half of which must be paid in cash when articles are filed, and balance within six months. Regulated as trust companies, and must make a deposit as security, and obtain certificates and authority to act in same manner.

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. No married man can bequeath more than two-thirds of his property away from his wife, and no married woman can bequeath more than two-thirds of her property from her husband. A will is revoked by a subsequent marriage, unless provision is made for wife by marriage contract or will.

SYNOPSIS OF

THE LAWS OF OREGON

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by Messrs. BEACH, SIMON AND NELSON, Attorneys at Law, Portland. (See Card in Attorneys' List.)

Accounts. In an action brought to recover a balance due upon a mutual, open, and current account where there have been reciprocal demands between the parties, the cause of action shall be deemed have accrued from the time of the last item proved in the account on either side; but whenever a period of more than one year shall elapse between any of a series of items or demands, they are not to be deemed such an account. Accounts are assignable and the assignee may sue thereon in his own name. (See Actions.)

Acknowledgments. May be taken in the State by any judge of the supreme court, county judge, justice of the peace, clerk of the supreme court, county clerk, or notary public. In any other state, territory, or district of the United States, according to the laws of such state, territory, or district; or of this State, before the judge of a court of record, justice of the peace, notary public, or other officer authorized by the laws of such state, territory, or district, or before any commissioner appointed by the governor of this State for that purpose. Foreign countries: Deeds may be acknowledged according to the law of such country, or of this State before any notary public therein, minister plenipotentiary, minister extraordinary, minister resident, charge d'affaires, commissioner, counsel, vice-counsel or counsel general of the United States, appointed to reside therein.

Actions. Every action shall be brought in the name of the real party in interest but an executor or administrator, a trustee of an express trust, or a person expressly authorized by statute, may sue without joining with him the person for whom the action is prosecuted. The complaint, answer, and reply must be verified. A defendant must appear, plead, or answer within ten days from service of summons, if served in the county where the action is brought; within twenty days if served elsewhere in the State, and if served by publication by the last day of the time prescribed in the order for publication of summons which must be published once a week for not less than six consecutive weeks.

Administration of Estates. The county court of the county in which the deceased died has exclusive jurisdiction in the first instance. Letters shall be issued as follows: 1. To the widow, husband, or next of kin, or both, in the discretion of the court. 2. To one or more of the principal creditors. 3. To any other suitable person whom the court may select, but a non-resident is not qualified to act as executor or administrator. An action may be commenced against an executor or administrator any time after the expiration of six months and the granting of letters prior to the final settlement of the estate. Presentation of the plaintiff's claim to the executor or administrator and disallowance by him is a condition precedent to the bringing of action. Upon proper showing to the county court, executor or administrator may borrow money upon any property belonging to estate to facilitate the settlement of the estate, and upon proper showing to the county court, executor or administrator may execute deeds of conveyance to fulfill bonds or contracts to convey real property, made by the deceased. Executor or administrator must publish notice of his appointment, and make and file an inventory of the estate which must be appraised by three competent persons appointed by the court.

Affidavits. An affidavit is a written declaration under oath, made without notice to the adverse party. The affiant must speak in the first person. An affidavit taken in another state of the United States or territory, or the District of Columbia, or in a foreign country, otherwise than upon commission, must be authenticated as follows before it can be used in this State: First:—It must be certified by a commissioner appointed by the governor of this State to take affidavits, or it must be certified by a judge of a court having a clerk and a seal, to have been taken and subscribed to before him at the time and place therein specified, and the existence of the court, the fact that such judge is a member thereof, and the genuineness of his signature shall be certified by the clerk of the court under the seal thereof, or before a notary public having a seal and acting as such by authority of any state or territory of United States or District of Columbia. The seal must be affixed together with the expiration of the notarial commission. Can not be used as testimony on a trial upon the merits against objections. The usual form and function of affidavits are that of proving service of a summons, notice, and facts in ex parte proceedings to obtain provisional remedies.

Age of Majority. Males, twenty-one years; females, eighteen years.

Aliens. Aliens have the same right with reference to holding property in this State as citizens of the State. A wife is not barred of her dower by reason of alienage. A foreign corporation not prohibited by the laws of this State and having complied with our law with reference to doing business here, may hold property and convey the same as freely as domestic corporations.

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Appeals. An appeal from the Justice and District Courts may be taken within thirty days, and from the Circuit Court to the Supreme Court by serving and filing the notice of appeal and bond at any time within thirty days from the date of the judgment or decree appealed from. Time may be enlarged by order of Supreme Court secured before the thirty days has expired, but shall not extend beyond the term of Appellate Court next following the appeal.

Arrest. Arrest in civil cases is allowed in certain cases, but is a remedy very rarely resorted to.

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 garnisheed. An attachment is dissolved by an assignment before judgment.

Banks. The constitution of the State prohibits the incorporation of any bank or banking company, or moneyed institution for the purpose of 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 state banking act provides that any person, firm, or corporation (except national banks) having a place of business within this State, where credits are opened by the deposit or collection of money or currency or negotiable paper subject to be paid or remitted upon draft, receipt, check, or order, shall be regarded as a bank or banker, and as doing a banking business under the provisions of said act. The word bank includes the banking or savings department of any trust company doing banking or savings business. Not more than 25 per cent of the assets of any bank, under state supervision, shall be invested in the stock of corporations.

Foreign banks and bankers shall be subject to the act.

Banking corporations may be formed under Chapter 171 of the Laws of 1911 by any number of persons, not less than three, citizens of the United States and residents of Oregon, associating together, and must have a capital stock as follows:

In cities, villages, and communities having a population of 1,000 inhabitants or less, $15,000; population over 1,000, and not over 3,000, $25,000; population over 3,000, and not over 20,000, $50,000; population over 20,000 and upwards, $100,000. These provisions do not apply to banks in existence before 1911. And where cities have a population of 50,000 or more, banks may be organized with a minimum capital of $50,000, when located at least two miles from central post-office of such city. Loans to one debtor limited to 20 per cent of capital paid in, and surplus, certain discounts of commercial paper not being included in the 20 per cent limit.

Any bank may loan not to exceed 50 per cent of its capital, surplus and commercial deposits, upon notes secured by mortgages or other real estate security, but no single loan to exceed 50 per cent of market value of the real estate security given. No officer, director or employee can borrow from the bank, except by approval of directors, and such approval must be a matter of record. Reserve required in cash or funds payable on demand deposited in banks, approved by superintendent of banks, one-third of which reserve must be in actual cash on hand, in cities of 50,000 or less, at least 15 per cent of deposit; in cities exceeding 50,000, and in all reserve banks, not less than 25 per cent of its commercial deposits, and not less than 15 per cent of its time and savings deposits.

Every director must be the owner of at least $500 worth of stock, par value. Board of directors shall meet once every three months and examine report of cashier. If approved, it must be signed by all directors present and made a part of the record. A committee of stockholders must make semi-annual examination. Superintendent of Banks shall periodically call for sworn reports showing bank's condition, abstract of which banks must publish. If Superintendent shall be of opinion that any bank is insolvent he may, in his discretion, take immediate possession, and a receiver may be appointed. Stock or shareholders of every corporation bank shall be assessed and taxed on the value of their shares.

Chattel Mortgages. (See Mortgages.)

Claims for Collection. In sending claim for collection, if owned by a partnership, the individual name of each partner and the firm name should be stated, and if a corporation, in what state incorporated. The claim should be accompanied by an itemized statement, verified by the owner or his agent, or his attorney, if within the personal knowledge, to the effect that he believes it to be true, and that there are no just offsets, or counterclaims to the same, except as stated. (See Accounts.)

All claims to be filed with administrators or executors, assignees or receivers should be likewise verified.

Collaterals. No statutory provisions. Usual rules of law govern.

Conditional Sales. Conditional sales of personal property that thereafter becomes attached to real property so as to become a fixture, must be recorded within ten (10) days in order to bind purchasers and mortgages of the real property. (Laws 1909.)

Conveyances. (See Deeds, Acknowledgments, Mortgages.)

Contracts. Contracts not to be performed within a year, contracts to answer for the debt, default, or miscarriage of another, contracts by an executor or administrator to pay the debts of his testator or intestate out of his own estate, contracts made upon consideration of marriage, other than a mutual promise to marry, contracts for the sale of personal property at a price, not less than $50, unless the buyer at the time receive part or pay part, contracts for the leasing for more than one year, or for the sale of real property or any interest therein, contracts entered into subsequent to May 20, 1909, authorizing an agent or broker to sell or purchase real estate for compensation or commission, are void unless the same or some note or memorandum thereof, expressing the consideration, be in writing and subscribed by the party to be charged.

Corporations. The articles of incorporation, or a certified copy of the ones filed with the secretary of the state or with the county clerk, shall be prima facie evidence of the existence of such corporation and its right to do the business mentioned in said articles without any further evidence thereof.

A sale, lease, assignment or transfer of business, franchise and property as a whole of any corporation now existing or hereafter formed in this State, may be made with the consent of the stockholders, holding of record as much as two-thirds of the capital stock of such corporation, provided such consent be expressed (at a regular or special meeting of the stockholders of such corporation, called for that purpose), and the conveyance be in consideration of lawful money of the United States.

Private corporations may be formed under a general law by three or more persons, and organization may be perfected after half or more of the capital stock has been subscribed. Organization fee to State depends on capital, ranging from $10 up.

Articles of incorporation must be executed in triplicate and acknowledged and one filed with the secretary of state, one with the clerk of the county court where the business of the corporation is to be carried on, and the third retained by the corporation.

A director must be a stockholder in the corporation and a majority must be resident of the State of Oregon, except that in mining corporations and common carrier railroads a majority of the directors may reside out of the State.

The stockholders are liable for the indebtedness of the corporation to the amount of their stock subscribed and unpaid for, and no more, excepting that the stockholders of corporations or joint stock companies conducting the business of banking shall be individually liable equally and ratably and not one for another, for the benefit of the depositors of said bank, to the amount of their stock at the par value thereof, in addition to the par value of such shares.

Foreign corporations may do business in this State as freely as domestic corporations, upon complying with the laws of this State. Are required to have an attorney in fact resident within the State and file declaration of intention to engage in business within the State, accompanied by certified copy of the charter, and pay an initial fee of $50.

Failure of foreign corporations, other than educational, to pay any license fee shall render void its right to transact business in Oregon.

Public service corporations doing business in the State shall establish and maintain at some fixed point within the State a principal office, and shall maintain thereat a secretary or managing agent.

Both domestic and foreign corporations, excepting only those hereinafter mentioned, and those organized for any educational, literary, scientific, religious or charitable purpose, pay a graduated annual license fee based on their authorized capital stock as shown by annual report required. The following is the statutory form of acknowledgment:

State of Oregon, County of..... SS:

On this.....day of..... 19.., before me appeared ....., to me personally known, who, being duly sworn (or affirmed), did say that he is the president (or other officer, officers or agent of the corporation) of (describing the corporation), and that the seal affixed to said 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 said .....acknowledged said instrument to be the free act and deed of said corporation.

In testimony whereof, I have hereunto set my hand and affixed my official seal this the day and year first in this, my certificate, written.

.....(Title of officer taking acknowledgment.)

Costs. If plaintiff is a non-resident of the county, in a justice court, the justice may require him to give an undertaking for costs. Costs follow the judgment in justice's court irrespective of the amount recovered. In courts of record, if plaintiff recovers, he is entitled to cost in actions involving open mutual accounts where the total of both parties exceed $150; in other actions for the recovery of money or damages if he recovers $50 or more.

In courts of equity, costs are discretionary with the judge.

Attorneys representing non-resident clients are responsible for costs.

Courts. The District court has limited criminal jurisdiction and civil jurisdiction up to $300. 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.

Creditors' Bills. General rules of equity govern.

Curtesy. The widower of every deceased person shall be entitled to the use, during his natural life, of one-half part of the lands his wife was seized of an estate of inheritance at any time during the marriage, although no issue born; all other laws of this State applicable to dower shall be applicable in like effect to estate by the curtesy. No action or suit shall be brought after ten years from death of a decedent, to recover or reduce to possession curtesy or dower by the surviving spouse of such decedent.

Days of Grace. (See Notes and Bills of Exchange.)

Deeds. Deeds must be sealed and executed in the presence of two witnesses, who subscribed their names to the same as such, and the execution acknowledged before an officer authorized to administer oaths. (See Acknowledgments.) If executed in any other state, territory, or district of the United States, or foreign country, shall be executed and acknowledged according to the laws of such state, territory, district or foreign country, or according to the laws of this State.

Unless recorded, a conveyance is void against a subsequent purchaser in good faith and for a valuable consideration whose conveyance is first recorded.

Conveyances, transfers, or liens executed by either husband or wife, to, or in favor of the other, are valid to the same extent as between other persons. A conveyance to husband and wife, jointly, creates an estate by entireties.

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. (L. O. L., Sec. 829.) 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 judge, justice of the peace, notary public, or clerk of a court selected by the officer issuing it. (L. O. L., Sec. 840.) 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. (L. O. L., Sec. 841.) 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. 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. (L. O. L., Secs. 846–7–8.) 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. The deposition should then be securely sealed, and addressed to the court of the county issuing the commission.

Descent and Distribution of Property. Real property descends as follows: 1. In equal shares to his or her children, and to the issue of any deceased child by right of representation; and if there be no child of the intestate living at the time of his or her death, such real property shall descend to all his or her other lineal descendants; and if all such descendants are in the same degree of kindred to the intestate, they shall take such real property equally, or otherwise they shall take according to the right of representation. 2. If the intestate shall leave no lineal descendants, such real property shall descend to his wife, or if the intestate be a married woman, and leave no lineal descendants, then such real property shall descend to her husband; and if the intestate leave no wife or husband then such real property shall descend

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in equal proportions to his or her father and mother. 3. If the intestate shall leave no lineal descendants. neither husband, nor wife, nor father, such real property shall descend to his or her mother; if the intestate shall leave no lineal descendants, neither husband, nor wife. not mother, such real property shall descend to his or her father; if the intestate shall leave no lineal descendants, neither husband, nor wife, nor father, nor mother, such real property shall descend in equal shares to the brothers and sisters of the intestate, and to the issue of any deceased brother or sister by right of representation. 4. If the intestate shall leave no lineal descendants, neither husband nor wife, nor father, mother, brother, nor sister, such real property shall descend to his or her next of kin in equal degree, excepting that when there are two or more collateral kindred in equal degree but claiming through different ancestors, those who claim through the nearest ancestor shall be preferred to those claiming through a more remote ancestor. 5. When any child shall die under the age of twenty-one years and leave no husband nor wife nor children, any real estate which descended to such child shall descend to the heirs of the ancestor from whom such real property descended the same as if such child died before the death of such ancestor. 6. If the intestate shall leave no lineal descendants or kindred, such real property shall escheat to the State of Oregon. Personal property descends the same as realty, except that husband surviving takes half wife's personalty, the wife surviving takes half husband's personalty, and survivor takes all in the absence of issue.

Dower. The widow of every deceased is entitled to dower during her natural life of one-half part of all the lands whereof her husband was seized during marriage, unless she is lawfully barred thereof. Where a husband purchases land during coverture, and mortgages the same to secure payment of the purchase money, his widow is not entitled to dower as against the mortgagee, although she shall not have united in the mortgage. A woman is not barred of her dower by reason of being an alien.

Equity of Redemption. (See Executions.)

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 from the entry of judgment the lien thereof shall expire, provided the judgment is not renewed within the ten-year period, which may be dome and repeated until satisfied. Execution may issue against the person or judgment debtor, against his property, or for the delivery of real or of 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 one year after confirmation. (L. O. L., Secs. 245–6–7–8.)

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. 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. Earnings of judgment debtor for personal services for thirty days exempt up to $75 when necessary for the family supported wholly or in part by judgment debtor, except when the debt is incurred for family expenses, 50 per cent of such earnings shall be subject to attachment, garnishment, or execution.

Foreign Corporations. (See Corporations.)

Foreign Judgments may be basis of action, but must be pleaded and proved.

Frauds. Every conveyance or assignment in writing or otherwise of any estate or interest in lands or personal property, and every charge upon lands, goods, things in action, or upon the rents or profits thereof, made with the intent to hinder, delay or defraud creditors or other persons shall be void. Every grant or assignment of every existing trust in lands, goods, or things in action, unless the same shall be in writing, subscribed by the party making the same, or by his agent, lawfully authorized, shall be void. The question of fraudulent intent shall be deemed a question of fact, and not of law.

Statute of Frauds. See Contracts.

Garnishment. Attachment or execution may be levied upon personal property of the defendant in the hands of third persons, or on debts due defendant, by leaving a certified copy of the writ with the debtor, and such debtor or third person shall furnish the sheriff a certificate, showing property in his possession belonging to defendant. If the certificate is unsatisfactory, the garnishee may be examined under oath.

Holidays. (See Holiday Map, opposite P. 13.)

Husband and Wife. (See Married Women.)

Injunction allowed as a provisional remedy, upon giving bond in cases where right thereto is shown.

Interest. Legal rate, 6 per cent; contracts may be made in writing for 10 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, provided that before the expiration of the ten years, the circuit court may upon motion extend the time another ten years, and then another, etc.

Jurisdiction. (See Courts.)

Liens. Person furnishing material or performing labor in building or repairing any structure or superstructure has a lien on the same and sufficient land for its enjoyment.

Hotel and boarding house keepers have a lien on guests' baggage.

Common carriers and warehousemen have a lien for charges.

Various statutes provide for laborers' liens in certain cases.

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 have been repealed. The wife's dower and the husband's curtesy in real property are preserved.

Mines and Mining. Any person being a citizen of the United States, or having declared his intention to become such, discovering a vein or lode of mineral bearing rock, may locate claim by posting notice, and thirty days thereafter marking the boundaries with six substantial posts, and making the improvements provided by statute within sixty days after the posting of notices, and within said sixty days, and after the required improvements have been made, file for record with the recorder of conveyances copy of such notices. All mining claims in this State are deemed real estate, and subject to all the provisions as to transfer, mortgage, etc., except that redemption from execution sale must be made within sixty days. Abandoned claims may be taken up under the provision of the act without reference to any work previously done thereon. Ditches and mining flumes permanently affixed to the soil are considered real estate, provided that non-user for five years or removal from the State will forfeit all title or interest. Grub stake contracts must be in writing and recorded in the county where locations thereunder are made. Any person may hold one claim by location and as many by purchase as the laws of the district where the claims are located will allow, but the discoverer of any new lead or vein not previously located upon may take one additional claim for discovery.

Mortgages of real or personal property and assignments thereof are executed and recorded in the same manner as deeds, and foreclosed by suit in equity. A satisfaction of a mortgage by the person appearing on the record as the owner thereof releases the land from the lien of said mortgage. 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 unless recorded. Every transfer of an interest in real property, no matter what its form, is deemed a mortgage if made as security. A mortgage does not entitle a mortgagee to possession of the property or bind the mortgagor personally to perform the act for the performance of which it is security, unless there is an express covenant to that effect. Mortgage upon real estate shall not be a lien or incumbrance after ten years from its execution or if otherwise disclosed ten years from date of maturity of the principal indebtedness.

Notaries. Appointed by governor for two years and give bond of $500.

Notes and Bills of Exchange. The negotiable instrument law, as prepared by the American Bar Association, has been adopted by this State and is the law governing bills, notes, etc.

Power of Attorney. Powers of attorney for conveyances of real estate, or whereby real estate is affected must be executed and acknowledged with the same formality that deeds to such property are made. A husband or wife may constitute the other his attorney to make conveyances of and dispose of his or her property, subject to revocation, the same as any other power of attorney.

Probate Law. (See Administration of Estates.)

Protest. (See Notes and Bills of Exchange.)

Records. Public records are notice to the world of their content when duly recorded.

Redemption. Lands sold on execution may be redeemed within one year from confirmation of sale by the judgment debtor or his successor in interest by paying purchase money, interest at 10 per cent per annum, and taxes paid by purchaser. A lien creditor may redeem from sale within sixty days from date of order of confirmation. (See also Taxes.)

Replevin. In an action to recover possession of personal property, the plaintiff may, at any time after the action is commenced, and before judgment, claim the immediate delivery of such property, by filing an affidavit and undertaking as required by statute.

Surety Companies. Foreign surety companies with a paid-up capital of $250,000 and having assets of $300,000, or domestic companies with a paid-up capital of $100,000, may be accepted as sole sureties on all bonds, undertakings, recognizances, and obligations required or permitted by law. The foreign corporations must appoint a resident agent to do business for the company and upon whom legal service may be made. A tax of 2 per cent is payable upon net premiums and may be collected by distraint. The secretary of state issues a certificate and the insurance commissioner grants a license allowing such company to do business from year to year.

Taxes. Taxes on real property are delinquent after first day in April, except when one-half is paid on or before first day in April; balance may be paid on or before first day in September. Owner may redeem at any time before tax deed is issued by paying the tax collector, for benefit of holder of certificate of delinquency, the amount paid for certificate, cost and interest thereon at 15 per cent.

Personal property may be sold for taxes, or taxes due on personal property may be made a lien on real property.

Transfer of Corporation Stock must be on the books of the corporation.

Usury. (See Interest.)

Warehouse Receipts. Transfer of receipt transfers commodity.

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 legacy or devise to an attesting witness is void and such person shall be admitted as a witness to the execution of such will.

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SYNOPSIS OF

THE LAWS OF PENNSYLVANIA

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by MORRIS, WALKER AND ALLEN, Attorneys at Law, Pittsburgh. (See Card in Attorneys' List.)

Acknowledgments of deeds of land in Pennsylvania should be made in the United States before an 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.

A married woman may make acknowledgment in the same manner and form as a femme sole.

Actions. Torts are sued in trespass: all other claims in assumpsit, common pleas courts have equity powers. Assumpsit to $300, cognizable by justices of the peace. Common pleas has original jurisdiction in all civil actions.

Administration of Estates. Administrators must file an inventory and appraisement of the personal estate within thirty days, and settle an account in one year from the date of their appointment. A widow is entitled to retain personal property to the amount of $300. A decedent's debts must be paid in the following order: 1. Funeral expenses, medicine and medical attendance during last illness of the decedent, and servants' wages not exceeding one year. 2. Rents not exceeding one year. 3. All other debts, without regard to the quality of the same, except debts due the commonwealth, which shall be last paid.

Appeals may be taken within six months to the superior or supreme court, according to the nature of the question or amount involved; but such appeal does not supersede an execution issued or distribution ordered, unless taken and perfected, and bail entered within three weeks from such entry. An appeal may be taken to common pleas from a judgment before a justice of the peace at any time within twenty days from date of judgment. A corporation appellant must in all cases of appeal from justices' judgment give bond for debt, interest and costs. (See Courts.)

Arrest in civil cases, under capias, issued instead of summons to begin an action, may occur in certain cases of assumpsit and in tort actions on affidavit filed. A defendant may be arrested, after suit brought by summons, 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. In civil cases, where the defendant is arrested on a bench warrant in a suit based on the allegation that the debt was fraudulently contracted, the defendant cannot secure his discharge from arrest and confinement (if directed by the court) by going into bankruptcy; since a discharge from bankruptcy does not discharge the bankrupt from debts fraudulently contracted.

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. Insolvency Act of 1901 is similar to the United States bankruptcy law and has been decided to be suspended while the United States bankruptcy law is in force, as to cases to which the latter applies.

Attachment Before Judgment. 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. Attachment can also be had to seize and hold property of non-resident. Judgment pursuant to foreign attachment binds the attached property only, unless the defendant appears.

Banks. Any association of persons, not less than five, may organize 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 and advertised 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. 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, and in case of insolvency are liable for assessment to the par value of their stock. 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 1889, the organization of savings banks is facilitated, and their management carefully controlled. All banks, trust companies, and building associations are now under the control of the banking department created by act of February 11, 1895. Under act of 1907, private banks are subject to supervision of state commissioner of banking. Under act of 1907, state banks and trust companies must maintain reserve of 15 per cent of checking accounts and 7 1-2 per cent on savings accounts and time deposits.

Trust companies are organized under the general corporation law for the purpose of insuring titles capital in any amount, and acquire trust company powers by accepting certain laws and paying up $125,000 capital, at least. No double liability.

Bills of Lading. A bill of lading may be transferred by endorsement and delivery unless the words "not negotiable" are plainly written or stamped on their face. The endorsee is taken to be the owner of the goods.

Chattel Mortgages. Allowed in iron, steel, and certain other articles. Must be recorded.

Contracts may be specifically enforced in equity where there is no adequate remedy at law, or damages for the breach be recovered at law. Contracts for an interest in real estate, except leases for not exceeding three years and contracts to hold an executor or administrator individually, and to hold a guarantor or surety, must be in writing, unless the amount involved be less than $20.

Corporations. A corporation may be formed for any single lawful purpose. Two or more corporations for the same or different purposes may be consolidated. Corporations for profit are chartered by the governor; others by the court of common pleas of the proper county. The former pay a charter bonus of one-third of 1 per cent on the authorized capital; annual tax 4 mills on appraised value of capital stock. Foreign corporations are subject to the same bonus and the same tax on the capital employed in this State. Foreign corporations doing business here must register and comply carefully with the State law under severe penalties and risk of avoidance of contracts. Manufacturing corporations are exempt from taxation, if capital is invested in strictly manufacturing pursuits.

Days of Grace are abolished.

Deeds and Mortgages. Deeds and mortgages should be under seal and duly acknowledged. Scroll seal is sufficient. Acknowledgments taken out of the State are usually taken before a notary, whose authority should be evidenced by certificate of clerk of court. Husband must join in wife's deed or mortgage. Wife must join in husband's deed, not in his mortgage. The wife need not acknowledge separate and apart from husband. By statute, the words "grant and convey" import all usual covenants except warranty. Covenants of warranty are added by the words "will warrant generally the property hereby conveyed," or, "will warrant specially the property hereby conveyed," as the case may be. Essential words of quitclaim deeds are "release and quitclaim." (For forms see Act 1909, page 91.) A mortgage is in form a conveyance, usually reciting a bond which it secures, and containing a clause of defeasance.

Descent and Distribution of Property. Estates of intestates are distributed as follows: 1. When intestate leaves a widow and issue, the widow takes one-third of the real estate for life and one-third of the personal estate absolutely. 2. When intestate leaves a widow and collateral heirs but no issue, the widow takes the real or personal estate, or both, to the aggregate value of $5,000, in addition to the widow's exemption as allowed by law; and if such estate shall exceed in value the sum $5,000, the widow takes the sum of $5,000, absolutely, to be chosen by her from the real or personal estate, or both; and in addition thereto, shall be entitled to one-half part of the remaining real estate for the term of her life, and to one-half part of the remaining personal estate, absolutely. 3. When intestate leaves a husband, he takes the whole of the personal estate and a life interest in the whole of the real estate. Subject to the above estates, real and personal property descends as follows: 1. To children equally where there are children and no issue of deceased children. 2. To grandchildren equally where there are grandchildren and no children or issue of deceased grandchildren. 3. To descendants in any degree of consanguinity, so long as they are all in the same degree. 4. To descendants in different degrees as follows: (1) To each child of the intestate such share as such child would have received if all the children who have died leaving issue had been living at the death of the intestate. (2) If there be no children, each grandchild shall inherit in like manner as in the last case. (3) The issue of a deceased child, grandchild, or other descendant take by representation the share of their parent. In default of issue and subject to the estates of the widow or surviving husband, real estate goes to the father and mother of the intestate during their joint lives and the life of the survivor, and the personal estate to them absolutely. In default of issue and subject to the estates and interests of the widow or surviving husband, father and mother, the real estate descends as follows: 1. To brothers and sisters of the whole blood and the children of deceased brothers and sisters of the whole blood, who take the shares of their parents. 2. In default of brothers and sisters of the whole blood, to the children of such brothers and sisters. 3. To next of kin, being descendants of brothers and sisters of the whole blood. Personal estate descends in the same way without distinction of blood; and in default of the above classes, real estate descends to brothers and sisters of the half blood and their descendants, in the same way. In default of all persons hereinbefore described, real and personal estate descends to and is distributed among the next of kin of the intestate. In default of known heirs or kindred, the real estate vests absolutely in the widow or surviving husband; and the widow takes all of the personal property. Regularly adopted children inherit under same rules as above. Illegitimates inherit from mother, but not from father.

Dower. (See Descent.)

Executions may be issued as soon as judgment is obtained. 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 on 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. Type-writing machines, pianos, organs and soda fountains, leased or hired, are exempt from sale on execution or distress for rent, provided notice of such leasing has been given to the landlord.

Fraud. (See Attachment.)

Garnishment may be had by attachment execution upon any existing judgment of any stock, debts, or deposits of money, or of goods and chattels pawned or pledged. Wages exempt except for board.

Holidays. (See Notes and Bills.)

Husband and Wife. (See Married Women.)

Interest. The legal rate is 6 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. 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.

Judgments of record bind all the interest of defendant in real estate within the county where the judgment was entered. The lien is against only real estate then owned in the county by the defendant. After-acquired real estate is not affected by the verdict or judgment;

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but a lien may be acquired on such after-acquired real estate by revival of the judgment as against it; and in the interim, by execution issued against such after-acquired real estate, and indexed in the judgment dockets. 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 death, one year; 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 have all the legal rights and capacity of an unmarried person except that they cannot convey or mortgage real estate without joinder of husband, and cannot become accommodation makers, endorsers or sureties, or guarantors. (See Deeds.)

Mechanics' Claims. The rights of parties furnishing labor or materials to buildings, bridges, pipe lines, railways, etc., as to filing liens, are defined and regulated by act of 1901.

In the case of tenancies, leaseholds, alterations and repairs, the claim must be filed in court within three months after the claimant's contract or agreement is completed; and in all other cases, within six months thereafter.

Any sub-contractor (one who furnishes labor or material by agreement with the contractor or his agent) must give to the owner written notice of his intention to file his claim, together with a sworn statement setting forth the contract, amount, items and date of last work done or materials furnished. Such notice must be served at least one month before the claim is filed and within three months after the last of his work was done or materials furnished if he has six months within which to file his claim, otherwise within forty-five days thereafter.

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. (See Deeds.)

Notes and Bills of Exchange. The substantive law is codified in the Negotiable Instruments Law of 1901.

Supplementary Proceedings. Where the Sheriff makes a return that property of debtor cannot be found sufficient to satisfy an execution, the plaintiff may by application to the Court compel the debtor to submit to an oral examination for the purpose of discovering whether he has property which may be made subject to execution on the judgment.

Warehouse Receipts. Receipts complying in substance with act of 1909 are negotiable if stating that the goods will be delivered to bearer or to order of a named person.

Wills. 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 away 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. 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. A devise or bequest in trust for any religious or charitable use, made within one calendar month prior to testator's death, is void.

SYNOPSIS AND NOTES AS TO DIGEST OF THE

LAWS OF PHILIPPINE ISLANDS

Prepared by WOLFSON & WOLFSON, Attorneys at Law, Manila.
(See Card in Attorneys' List.)

Judgments carry interest at rate of 7 per cent, but there being no usury laws, any interest contracted for can be recovered.

Our justice of the peace in the city of Manila has jurisdiction from one cent to $300. United States currency. For $300 (United States currency) or over suit must be filed in our court of first instance, which court has concurrent jurisdiction with the justice of the peace from $50, United States currency to $300, United States currency. Appeals can be taken to the supreme court of the Philippine Islands for any amount over which the court of first instance has jurisdiction. Special laws relating to land.

The cost of filing in the justice court, inclusive of sheriff's fees, is about $3.00, United States currency. The cost of filing suit in the court of first instance, inclusive of sheriff's fees, is about $10 United States currency. The cost for filing a suit in the supreme court is $12, United States currency. If facts are to be reviewed, all pleadings must be printed. Cost $1.00 per page. All costs are payable in advance of filing the cause.

A cause is appealed to the supreme court of these islands by preparing and having approved a bill of exceptions by the court of first instance, which bill of exceptions contains the pleadings. The evidence and testimony goes to the supreme court from the court of first instance in its original form as filed below. Briefs, of course, are paid for by the respective parties and cannot be recovered as costs. There are statutory fees allowed the winning party.

Sections 412 and 424 of the code of civil procedure give the causes which justify an attachment.

A chattel mortgage law has been enacted by the commission, thus enabling a person to secure loans on any movable property, except on general stock of merchandise in a going store. Specific merchandise in the store may be mortgaged, but not a general stock.

A corporation law is now in effect in the Philippine Islands.

The divorce laws have been suspended by our laws (code) of civil procedure. However, our courts will grant judicial separations without granting absolute divorce.

Garnishment of a debtor is allowed, as well as supplemental proceedings.

Our supreme court has decided that the judgment having oldest date takes first privilege over proceeds regardless of first execution, no matter how vigilant the subsequent judgment creditor.

There is no settled jurisprudence regarding the lien and privilege of a judgment debtor, nor have we any recognized or settled jurisprudences regarding mechanic's liens, as well as a furnisher of supplies.

The civil code treats fully the rights of married women.

We have several classes of mortgages, which are fully treated in the civil code. The form most in vogue here is the "venta pacto de retro," which is a conditional sale. The non-payment of the debt at the time mentioned in the mortgage, forfeits the property to the mortgagee. The uniform "Negotiable Instruments Law" is now in force here.

A claim sent for collection may be proved by deposition or by oral examination in court. If a claim is presented by an attorney, and the amount acknowledged as due and owing by the debtor, his evidence will be accepted as proof of admission of the claim.

All bank checks must be endorsed with name of payee.

Real estate sold under execution is redeemable by the judgment debtor, or any party in interest, within twelve months from the date of sale, upon the payment of all costs and expenses and one per cent per month interest. Personal property may be replevined upon complying with the condition prescribed by the code.

Service of summons is made by the civil sheriff in the city of Manila, and by sheriffs who are duly appointed in the provinces, otherwise by the governor of the province, who is the ex-officio officer (sheriff.)

Under the head of wills, our law relative thereto is exceedingly simple.

A bankruptcy law, practically the same as the national bankruptcy bill of the United States, was passed at the 1909 session of our legislature. A merchant may be put into bankruptcy upon the petition of three or more local creditors whose claims have remained unpaid for thirty days, provided their claims aggregate $500 United States currency or more.

We have the "Torrens Title" system of registering title to lands. This system has been in force since 1902 and has worked splendidly. Cadastral surveys are now being made in many parts of the islands.

Our mining laws are set forth in the Act of Congress of July 1, 1902. A few amendments have been made. Patents to mining claims are easily obtained at comparatively small expense.

SYNOPSIS OF

THE LAWS OF RHODE ISLAND

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by WILSON, GARDNER & CHURCHILL, Attorneys at Law, Providence.

Accounts. (See Proof of Claims.)

Acknowledgment of any instrument required by any statute of this State to be acknowledged shall be made, within this State, before any state senator, judge, justice of the peace, mayor, notary public, town clerk or recorder of deeds; without this State, and within the United States, before any judge or justice of a court of record or other court, justice of the peace, mayor or notary public of the state, district of Columbia, or territory in which such acknowledgment is made, or before any commissioner appointed by the governor of this State; without the limits of the United States, before any ambassador, minister, charge d'affaires, consul-general, vice-consul-general, consul, vice-consul, consular agent, or commercial agent of the United States, or before any commissioner appointed by the governor of this State in the country in which such acknowledgment is made. (See Deeds.)

Actions and Suits. All actions and suits which concern realty must be brought in the county, or district, if in a district court, in which the land lies; all other actions and suits, either in the county or district where the plaintiff or defendant or some one of the parties plaintiff or defendant shall dwell, or in which the defendant or one of the defendants shall be found. (See Courts.)

Administration of Decedent's Estate. In grants of administration the widower or widow is preferred; after them the next of kin. If these neglect within thirty days to apply any person interested in the estate may petition for the appointment of some suitable person. Non-residents are not appointed by reason of any right to such trust but may be appointed in discretion of the court. Foreign executors and administrators must appoint local agent for acceptance of service of process. Bonds shall be given in such amounts and with such sureties as the court shall direct. Executors and administrators shall file accounts within two years after qualification and thereafter annually. The probate court may allow widow or minor children such household effects and property exempt from attachment as it deems necessary and shall also make reasonable allowance for the support of the family not exceeding six months from the date of decease.

Affidavits may be taken by any magistrate within the State and before any commissioner appointed by the governor within the State or county described in the commission. Affidavits to be used in this State may usually be taken outside of Rhode Island, before magistrates authorized to take depositions. No particular form is prescribed.

Aliens may take, hold, convey, and transmit title to real estate, and may sue for and recover possession of the same in the same way and with the same effect as if they were native-born citizens of the United States.

Appeals may be taken from decree or order of a probate court or town council to the superior court within forty days after the decree or order. If no appeal is taken by reason of accident, mistake or unforeseen cause, a right to appeal may be granted by the supreme court upon petition filed within one year. In all cases where an executor, administrator or guardian is directed by law to obtain the advice and direction of the probate court before acting, there is no appeal from such advice or direction; and the same is conclusive, and all parties acting thereon are protected thereunder. Appeals from a district court to the superior court may be taken in any criminal case within five days after conviction; and in any civil case by claim of jury trial within two days after decision; except that in cases for possession of tenements, etc., the claim must be made within six hours after decision.

Arbitration. Controversies or claims relating to estates in the hands of trustees, executors, administrators, and other fiduciaries may be settled by arbitration and award, under authority of the court. There are especial statutory provisions regarding proceedings upon arbitration.

Arrest. Writ of arrest may issue in contract suits, where defendant has committed fraud in fact, or is about to leave the State, and in all tort actions.

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Assignments. Every person making an assignment at common law for the benefit of creditors shall file with his assignee a sworn, itemized schedule of all his assets, showing the amount and kind of his property, where located, and the cash value thereof, to the best of his knowledge and belief, and a list of his creditors stating their names, residences, and the amounts due each of them, and the evidences thereof and securities therefor, if any, held by them. Such deed and assignment must be recorded, and the assignee must give public notice of his qualification to all creditors to present claims and to all debtors to make payments to such assignee, in some newspaper published in the county in which such assignor resides or is located, and such assignee shall also notify creditors in like manner by mail. One-fifth in amount of the creditors of the assignor, by petition to the superior court, may require assignee to give bond to the superior court, with good surety, in the amount of the total value of all property conveyed by the deed of assignment, conditioned on the faithful performance of his duties. Such assignee may be required to make an itemized, sworn report in writing to the superior court of all his doings under his trust.

Attachment lies in assumpsit. Writs may issue to attach real or personal estate of a debtor when the plaintiff, his agent or attorney, shall make affidavit, to be endorsed on the writ or annexed thereto, that the plaintiff has a just claim against the defendant that is due, on which he expects to recover a sum sufficient to give jurisdiction to the court to which the writ is returnable.

The property of a non-resident defendant may be attached in tort actions upon like affidavit stating also the fact of his non-residence.

Banks and Trust Companies. The bank commissioner, the general treasurer, and the attorney-general constitute the board of bank incorporation. Fifteen or more persons, citizens and residents of this State, may associate themselves by agreement in writing for the purpose of forming either a bank, a savings bank, or a trust company, and become a corporation, with all the powers, rights, and privileges, and subject to all the duties, restrictions, and liabilities set forth in title XXII of the General Laws of Rhode Island, 1909, and amendments and additions thereto. The bank commissioner shall at least twice in each year visit and examine each bank, savings bank, or trust company incorporated in this State, and he shall annually report to the general assembly the condition of all institutions examined by him, with such recommendations as he may deem proper. Every bank and trust company, whenever required by the bank commissioner, but at least five times within any calendar year, shall make a full and detailed report to the bank commissioner, over the signatures and oaths of its president or vice-president and secretary or treasurer, or cashier, or auditor, and attested by at least three of its board of directors, showing accurately the condition of such corporation at the close of business on any past day by him specified; and every savings bank, upon request of the bank commissioner, but at least twice within any calendar year, shall make a report to said bank commissioner, signed and sworn to by its president or treasurer, showing accurately the condition of such corporation at the close of business on any past day by him specified. In case any such corporation appears to be insolvent, the bank commissioner, with the approval and consent in writing of at least one other member of the board of bank incorporation, shall immediately take possession of said corporation and its assets, and may apply to the superior court for the appointment of himself or a deputy or both, as receiver or receivers thereof. Investments by and reserve funds of such corporations are prescribed and limited by the provisions of said title, and amendments thereto.

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

Bills of Lading. Every bill of lading must embody within its written or printed terms, the date of its issue, the name of the person from whom the goods have been received, the place where the goods have been received, the place to which the goods are to be transported, a statement whether the goods received will be delivered to a specified person, or to the order of a specified person, description of the goods or of the packages containing them, which may, however, be in such general terms as are referred to in section 23, and the signature of the carrier. (The Uniform Bills of Lading Act went into effect in April, 1914.)

Chattel Mortgages are executed in the same manner as mortgages of real estate, and may cover any kind of personal property.

To be valid against third parties, they must be recorded where the mortgagor resides, if he be a resident of the State; if a non-resident the record must be in the town where the property is at the time of making the mortgage. Or the mortgagee may take possession of the mortgaged property and will be protected as a pledgee in possession against third parties. But, the mortgage must be recorded or possession must be taken within five days of the date of signing, otherwise it is void except as to the parties and those having actual notice of it.

Foreclosure is usually effected by sale under power in the mortgage. Mortgagor may redeem at any time within sixty days after condition is broken, unless the property shall have been sold pursuant to the contract between the parties.

Claims against Estates of Deceased Persons. All claims must be filed in the office of the probate clerk, within six months from the date of the first advertisement of the notice of his qualification, or within any longer period not exceeding one year from such date. No claims other than those presented as aforesaid can be enforced against said estate, unless claimant can show same was not duly filed by reason of accident or mistake or unforseen cause. Debts due to the United States, the necessary funeral charges of the deceased, the charges for medical attendance and nursing, specially employed, and medicines used in the last illness, debts due to this State, and all state and town taxes, are to be first paid, and in the order in which they are named. If a commission on either solvent or insolvent estates be requested, such commission shall be appointed by the court at once, and shall report on the contested claims within a period of three months, unless further time be allowed for cause shown. Such commissioners shall give due notice of the times and places of their meetings to hear the creditors on their claims, and they or either of them may administer oaths to and compel the attendance of witnesses. Any person whose claim is not allowed in the whole by the commission shall have the right to appeal to the superior court.

Collaterals. No person holding stock in any manufacturing corporation as collateral security, shall be personally liable, by virtue of such stock, to any liabilities as a stockholder of such company. There is no statutory provision as to the method of foreclosure of collateral.

Contracts. All contracts, except for necessaries, made by any person under guardianship shall be void. Assignments of wages to be earned in the future will be void unless recorded in the form prescribed by statute. Contracts for the sale of lands, or the lease thereof for more than one year; contracts made upon consideration of marriage; contracts not to be performed within one year from the making thereof; and contracts to sell or a sale of goods or choses in action of $500.00 or more, unless the buyer shall accept part of the goods or choses in action and actually receive the same, or gives something in earnest to bind the contract, or in part payment, must be in writing and signed by the party to be charged or his lawfully authorized agent.

Conveyances. (See Deeds.)

Corporations. Under the provisions of chapter 212, general laws 1909, any three or more persons of lawful age may associate for the purpose of organizing any ordinary business corporation, and upon filing proper articles of association with the secretary of state and payment of incorporation fee, secure perpetual charter. (Corporations which shall need to exercise right of eminent domain, insurance companies, banks and corporations to trade in bonds, stocks, etc., are otherwise organized.) Organization fee is one hundred dollars for any corporation the capital stock of which does not exceed one hundred thousand dollars; in excess of that amount one-tenth of one per cent. Corporation must have place of business within the State and a statutory clerk, treasurer or other agent. If treasurer is a non-resident there must be some competent person resident attorney to accept service of process. Records of transfers of stock shall be kept within the State. No statutory requirements that meetings of stockholders or directors shall be held within the State. Liability of stockholders "shall be limited to the shares of such members in such corporation paid up to the par value thereof."

Costs. In civil actions at law, the party prevailing shall recover costs, except when otherwise specially provided, or as justice may require in the discretion of the court. No allowance is made to pay the expenses of litigation or attorneys' fees. Every non-resident plaintiff, upon motion of the defendant, shall give some sufficient person residing within the State, or some surety company authorized to do business therein as surety for costs.

Courts. Terms and Jurisdiction. The supreme court has general supervision of all inferior courts and has jurisdiction of petitions for new trials, bills of exceptions and appeals. Its principal session is held at Providence from the first Monday in October to the second Monday in July in the following year. The superior court has original jurisdiction of suits in equity, petitions for divorce, all actions at law where the debt or damages laid in the writ shall exceed $500, of probate appealed cases and claims for jury trials from district courts. District courts have jurisdiction in civil cases limited to $500.00 and are in session throughout the year. Each town and city has its own probate court. The superior court is in continuous session from the third Monday in September to the second Monday in July the following year.

Deeds. Every conveyance of lands, tenements, or hereditaments absolutely, by way of mortgage, or on condition, use, or trust, for any term longer than one year, shall be void unless made in writing, duly signed, acknowledged, delivered, and recorded in the records of land-evidence in the town or city where the said lands, tenements or hereditaments are situated: Provided, however, that the same, if delivered, as between the party and their heirs, and as against those taking by gift or devise, or those having notice thereof, shall be valid and binding, though not acknowledged or recorded. Such instrument may be referred to as, and shall be, a deed, though no seal be affixed thereto. Acknowledgment of any deed must be by all the parties grantors, including married women, even through releasing dower only. (See Acknowledgment.)

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.

Descent and Distribution. Real estate of an intestate descends in the following course: 1. To children or their descendents. 2. To the parents in equal shares or to the surviving parent. 3. To the brothers and sisters and their descendants. In default of these, in equal moities to the paternal and maternal kindred, each in the following course: 1. To the grandparents, in equal shares. 2. To the uncles and aunts, or their descendants by representation. 3. To the greatgrandparents, in equal shares. 4. To the great-uncles and great-aunts, or their descendants by representation, and so on, in other cases, without end, passing to the nearest lineal ancestors and their descendants. But if the title of the intestate came "by descent, gift or devise from the parent or other kindred of the intestate, and such intestate die without children, such estate shall go to the kin next to the intestate of the blood of the person from whom such estate came or descended, if any there be." Dower and curtesy exist substantially as at common law. Personal estate, not bequeathed, is distributed as follows, viz.: 1. One-half to the widow of person dying without issue. 2. One-third to widow when there is issue. 3. The remainder is distributed in the manner provided for the descent or real estate, but without regard to the blood of the person from whom such personal estate came or descended. Upon the decease of a married woman the entire personal estate goes to her surviving husband.

Dower. (See Descent and Distribution.)

Employers' Liability. A Workmen's Compensation Act providing for payments to employees for personal injuries received in the course of their employment applies to employees except in domestic service, agriculture and any other lines where five or less workmen or operatives are regularly employed. Employers to whom the act applies may elect whether or not to accept its provisions, but those who do not are deprived by the act of the defenses of assumption of risk, contributory negligence and negligence of a fellow servant in actions brought against them by their employees. Employees electing to become subject to provisions of said act are held to have waived rights of action at common law unless notice in writing is given to employers, claiming such rights within a specified time. For injuries resulting in death of employees or in incapacity for labor for a period of more than two weeks, certain fixed amounts must be paid by

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employers to those dependent upon the employees or to the employees themselves for specified periods of time, the same to be full compensation for said injuries.

Evidence. No man shall be compelled to give evidence criminating himself. The parties to suits may testify. Husband and wife of either party are competent witnesses in any civil case, but neither can give evidence tending to criminate the other, nor disclose communications made during marriage, except in divorce causes. Either party to a divorce case may testify.

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.

Foreign Corporations. Every foreign corporation, other than national banking associations and foreign insurance companies, shall appoint by written power some competent person, resident in this State, as its attorney, with authority to accept service of all process against such corporation in this State.

Foreign Judgments. There is no statutory provision as to foreign judgments.

Garnishment. Personal estate of the defendant in the hands of any person, co-partnership, or corporation may be attached. The debtor of the defendant should file an affidavit setting forth his liability etc.

Guaranty Companies. (See Surety Companies.)

Holidays. (See Notes and Bills of Exchange.)

Husband and Wife. (See Married Women.)

Injunctions either temporary or permanent may be granted by the superior court after hearing.

Insolvency. Any inhabitant of this State owing debts in this State to the amount of $300 or more, and who shall be insolvent, may prefer his voluntary petition under oath for relief as an insolvent; and such person shall be adjudged insolvent if he has within four months prior to the filing of a petition in insolvency against him, procured or suffered to remain for forty days, any attachment of or levy upon his property, with intent to give or suffer a preference, or, being insolvent, has suffered judgment to be entered against him in this State or elsewhere,or has made a conveyance, gift or transfer with intent to hinder, delay or defraud his creditors; or has made an assignment for the benefit of his creditors, or has secreted his property, with intent to hinder, defraud or delay his creditors, or has, within four months next prior to the filing of a petition against him, knowingly in writing made a false statement involving his financial condition, property, or ability to pay, or has done or omitted other things prescribed by Chapter 339 of the general laws, 1909. Proofs of claim shall be made in writing under oath by the creditor or his agent, and filed with the clerk of the superior court, unless the matter has been sent to a register, in which event they shall be filed with the register. (See also title Assignments.)

Insurance Companies are controlled by the insurance commissioner, who may examine any of their officers or agents under oath, and to whom they must transmit true statements of their condition and business in the month of January in each year.

Interest. No person, partnership or corporation, except duly licensed pawnbrokers, shall charge or take interest on any loan, whether before or after maturity, at such a rate, including compensation for services or expenses incidental to the making, negotiation or collection of such loans, that total of one year's interest shall exceed thirty per centum of the amount actually received by the borrower, on all amounts exceeding fifty dollars, whether in one or more loans, and on all amounts not exceeding fifty dollars, five per centum per month for the first six months; and thereafter two and one-half per centum per month of the amount actually received by the borrower.

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.

Jurisdiction. (See Courts.)

Licenses. No license by commercial travelers is required in this State. Peddlers of merchandise must obtain a license from the State treasurer.

Liens. Persons doing work for, or furnishing materials to be used in the construction, erection, or reparation of any building, canal, turnpike, railroad, or other improvement of the owner of the land on which same is situated, by contract with such owner, or with the husband of such owner with the consent of his wife in writing, has a lien thereon for such work and materials, subject to the encumbrances on land at time of the commencement of work or delivery of the materials. A sub-contractor has such lien, provided he gives written notice to the owner of the property affected thereby within forty days after doing such work, and sixty days after materials are placed upon the land, that he will claim such lien. (See General Laws, 1909, Chap. 257.)

Limitations of Actions. Actions for words spoken shall be commenced and sued within one year next after the words spoken. Actions for injuries to the person shall be commenced and sued within two years next after the cause of action shall accrue. Actions of trespass, except for injuries to the person, shall be commenced and sued within four years next after the cause of action shall accrue. All actions of account, except on such accounts as concern trade or merchandise between merchant and merchant, their factors and servants, all actions of the case except for words spoken and for injuries to the person, all actions of debt founded upon any contract without specialty or brought for arrearages of rents, and all actions of detinue and replevin, shall be commenced and sued within six years next after the cause of action shall accrue. All actions of debt other than those in the preceding sections specified, and all actions of covenant, shall be commenced and sued within twenty years next after the cause of action shall accrue. No executor or administrator may (except in certain cases, for which special provision is made by statute) be sued at law or in equity, by a creditor of the deceased, within six months from the date of the first publication of the notice of the qualification of the first executor or administrator. No executor or administrator shall be held to answer to the suit of a creditor of the deceased, except to a suit on his bond or as is otherwise provided, unless such suit is commenced within two years from the date of the said first publication and before any order of distribution has been made on the estate of the deceased.

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 trader as though single and unmarried. 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). Foreclosure is usually enforced by sale under power in the mortgage, which in most cases enables the mortgagee to sell after prescribed 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. Mortgages are usually given to secure promissory note of the mortgagor to the mortgagee's order, described in the mortgage. There is no redemption period.

Notaries Public are appointed by the governor in June to serve three years. They have the power to administer oaths, take acknowlments to deeds and other instruments, take depositions and protest bills of exchange, notes and checks.

Notes and Bills of Exchange are governed by the provisions of Title XIX of the General Laws, 1909, entitled "Of Negotiable Instruments." Every negotiable instrument except sight drafts is payable at the time fixed therein without grace. When the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day. Legal holidays are the first day of January, the 22d day of February, the first Wednesday of April, the 30th day of May, the 4th day of July, the first Monday of September, the 25th day of December, and each of said days in every year, such day as the governor of this State shall appoint as Arbor Day in every year, the Tuesday next after the first Monday of November in the year 1896, and in every second year thereafter, or when either of the said days falls on the first day of the week, then the day following it, the first day of every week, and such other days as the governor or general assembly of this State, or the president, or the Congress of the United States, shall appoint as holidays for any purpose, days of thanksgiving or days of solemn fast, and Saturdays after 12 o'clock A. M. Holidays (other than Sunday) falling on Sunday, are observed on Monday following. Indorsers of commercial paper are holden on notice from notary public, in accordance with the usages of commercial law. Uniform Negotiable Instrument law has been in force in this State since 1899.

Partnership, Limited, may be formed for mercantile, mechanical, or manufacturing business, but cannot transact insurance nor become banks of issue and circulation. The persons forming any such partnership shall make and severally sign a certificate, which shall set forth; 1. The name of the partnership. 2. The names and respective places of residence of all the general and special partners, distinguishing who are general and who are special partners. 3. The amount of the capital which each special partner has contributed. 4. The general nature of the business to be transacted. 5. The time when the partnership is to commence and when it is to terminate. This certificate must be acknowledged by all and recorded in the office of the town or city clerk in the town or city in which the partnership's principal place of business is located. (See Chapter 186 of the General Laws, 1909, as to the liability of the partners.)

Probate Law. (See Administration of Decedent's Estate.)

Proof of Claims. The proof of claims by affidavit is not required, except in insolvency. An affidavit drawn in compliance with the law as mentioned under title Attachment, or Arrest, should be sent with the claim when suit is to be brought. Claims must be filed with assignees within six months from the date of the published notice of the assignment. If disallowed the assignee gives notice in writing to creditor, who must sue within sixty days. Non-resident plaintiffs may always be required to give security for costs after a suit is entered in court, and other plaintiffs in the discretion of the court.

Protest. Notes, bills of exchange, and drafts are protested by notary public.

Records, deeds, mortgages, and other writings required to be recorded are entered in the office of the town or city clerks, except in the city of Providence, where they are recorded in the office of the recorder of deeds.

Redemption. Property sold under execution, or foreclosed and sold under power of sale in a mortgage, cannot be redeemed. Real estate sold for taxes thereon may be redeemed within one year upon repayment to the purchaser of the amount of the tax with expenses and 20 per cent additional.

Replevin. Any personal estate may be replevied by the owner unless he be defendant in a suit in which such property has been attached. Bond in double the value of the property replevied, with sufficient sureties, is required.

Revision. The last revision of the Rhode Island statutes went into effect January 1, 1910, and is termed "General Laws of Rhode Island, 1909."

Sale of Goods. A contract to sell or a sale of goods of the value of $500 or upwards shall not be enforcible by action unless the buyer shall accept part of the goods so contracted to be sold or sold, and actually receive the same, or give something in earnest to bind the contract, or in part payment, or unless some note or memorandum in writing of the contract or sale be signed by the party to be charged or his agent in that behalf. This applies to every such contract or sale, whether the goods may be intended to be delivered at some future time, or may not at the time of such contract or sale be actually made, procured, or provided, or fit or ready for delivery. Uniform Bill of Sales Act is in force in this State.

The transfer of the major part in value of the whole of a stock of merchandise and fixtures, or merchandise, or fixtures, otherwise than in the ordinary course of trade and in the regular and usual prosecution of the transferrer's business, whether in one or more parcels or to one or more persons, provided the transfer is all part of substantially one transaction or proceeding or occurs substantially at one time, shall be fraudulent and void as against all creditors of the transferrer unless the transferee demands and receives from the transferrer a written list of the names and addresses of the creditors of the transferrer and certified by him, under oath, to be, to the best of his knowledge and belief, a full, accurate, and complete list of his creditors; and unless the transferee shall, at least five days before such transfer, notify personally, or by registered mail, every creditor whose name and address are stated in said list of the proposed transfer.

Service. Superior court writs are returnable not less than ten nor more than sixty days from the date of service; district court writs not less than six nor more than twenty days from the date of service.

Surety Companies must have a paid-up capital of $250,000. Foreign surety companies must appoint, by written power, the insurance commissioner of this State to be their true and lawful attorney in and for this State. Such companies, complying with the law of this State, may become sureties on any bond.

Taxes. All corporations doing business within the State are taxed upon the corporate excess. Stock in all such corporations is exempt from taxation in the hands of resident stockholders. There is a uniform tax throughout the State on intangible personal property of forty cents on the hundred. The tax upon real estate and tangible personal property is fixed by each town or city. Individual tax payers are not obliged to make returns, but are without recourse if such

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returns are not made. If returns are made tax payer is entitled to an appeal to the superior court in the event of over-taxation. There is no inheritance tax. Taxes are a lien on real estate and land may be sold for taxes after proper assessment and levy. Owner, his heirs or assigns, may redeem within one year by paying purchase money with twenty per centum in addition.

Testimony. (See Evidence.)

Transfer of Corporation Stock shall be made agreeable to the provisions of Chapter 840 of the Public Laws of the State of Rhode Island, 1912, commonly known as Uniform Stock Transfer Act.

Trust Deeds are executed the same as other deeds.

Warehouse Receipts must embody within its written or printed terms, location of the warehouse where the goods are stored, date of issue of the receipt, its consecutive number, a statement whether the goods received will be delivered to the bearer, a specified person or a specified person or his order, the rate of storage charges, a description of goods or the packages containing them, the signature of the warehouseman or his agent. Uniform Warehouse Receipt Act is in force in this State. (See also General Laws, 1909, Ch. 267.)

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. (General Statutes, 1909, Chapter 254.)

SYNOPSIS OF

THE LAWS OF SOUTH CAROLINA

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by Messrs. MORDECAI & GADSDEN & RUTLEDGE, Attorneys at Law, Charleston. (See Card in Attorneys' List.)

Accounts and Claims. Accounts shall be itemized and contain a statement of all payments and credits. Full names of creditors and residence should be sent. If partnership, firm name and full name of each partner. If corporation, its name and under the laws of what state incorporated. Claims should be verified by a member of the firm or officer of the corporation before a notary public having a seal, or a commissioner of deeds for South Carolina.

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 ten days from the time of delivery. 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, or, if taken without the United States, before a consul or vice-consul or consular agent of the United States of America. All vertifications 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 notary shall use his official seal.

Actions. Suits in the court of common pleas are begun by issuing a summons and filing complaint. The complaint must be signed by the party or his attorney, and may or may not be verified. All distinctions between actions at law and suits in equity have been abolished.

Administration of Estates. Letters testimentary are granted after the probate of any last will and testament in due form of law, by and before the proper judge of probate. The filing of a bond by executors is not required, unless such executor be a non-resident. (Act of 1902.) In case any person die intestate, the judge of probate of the county where such person was last a resident and died shall grant administration of the goods, chattels, rights, credits of such person deceased to his or her relations in the order following: 1. To the husband or wife of the deceased. 2. The children or their legal representatives. 3. In default of them, then to the father or mother of the deceased. 4. To the brothers or sisters. 5. In default of them, to such of the next of kindred of the deceased, at the discretion of the judge of probate, as shall be entitled to a distributive share of the intestate estate. 6. Next to the largest creditor or such other person as the court shall appoint.

Affidavits. All affidavits should be made before a commissioner of deeds for South Carolina, or before a notary public having an official seal. The affidavit used for the purpose of proving the execution of deeds when taken without the limits of this State, but within the United States, must be made before a commissioner of deeds for this State, or before the clerk of a court of record, who must use his official seal, or before a notary public, who must also use his official seal. If taken without the United States it must be made before a consul, vice-consul, or consular agent of the United States.

Aliens. No alien person, either in his own right in severalty, or as tenant in common, in fee or for a term of years, or as trustee, cestui qui trust, or agent, shall own or control within the limits of this State more than 500 acres of land, provided this section does not apply to land purchased under proceedings to foreclose mortgage held by foreign corporations purchasing the same, but in such case such foreign corporation shall not be entitled to hold said excess of land more than five years without sale of the same, unless the comptroller-general shall certify that a sale during that time would be detrimental to the interest of such corporation, in which case said land may be held for five years longer upon same conditions. This article does not apply to lands already owned or controlled by the persons or corporations referred to in this article, nor to lands already mortgaged to such persons or corporations. Alien widows are entitled to dower and descent can be traced through aliens. It seems as if alien heirs at law and devisees cannot own more than 500 acres of land in this State.

Arbitration. Sworn arbitrators may be appointed to settle differences, the parties giving bond to abide result, with right of appeal to circuit court.

Arrest. Persons guilty of fraud in the contraction of a debt, or in disposing of or concealing property, may be arrested and held to bail.

Assignments and Insolvency. Insolvents may assign for benefit of creditors, without making preferences, and creditors may appoint agent to act with assignee. Debtor can require creditors to release. All transfers within ninety days of assignment are 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 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. Attachment may issue to secured purchase money of property real or personal.

Banks. Sec. 2633. The president, directors and company of any incorporated bank in this State are authorized to make loans on negotiable paper for any period not exceeding twelve months; and also to open an account and give a credit to any other bank or banks in any of the sister states.

Sec. 2634. Such corporations shall have the power to vest, from time to time, such part of their capital, not exceeding (with the amount of stock any such bank may hold) one-half of the amount originally subscribed to such bank, in the stock of this State or United States.

Sec. 2635. Banks forfeit $500 a week, if bank notes issued and in circulation exceed for more than four successive weeks three times the amount of gold and silver coin and bullion held by the bank.

Sec. 2636. The amount of such notes to be certified to comptroller-general each week, together with amount of such gold and silver coin and bullion.

Sec. 2637. Failure in these matters forfeits $100 a day to be recovered at the suit of the State.

Sec. 2638. Felony for officer to receive deposits or trusts, after he shall become aware of insolvency. Parties injured may also recover civilly against such officer.

Sec. 2639. Banks not compelled to pay notes or bills torn in half without production of both halves or bond of indemnity.

Sec. 2640. Defines "bank notes."

Sec. 2642. Banks must publish quarterly statements in newspapers, sworn to by three directors.

Sec. 2661. The liability to a bank of any person other than a director or officer, shall not exceed 10 per cent of the capital. This debt not to include bills of exchange drawn against values and commercial and business paper. Two-thirds of directors can increase 10 per cent limit.

Sec. 2662. Directors and other officers shall only borrow on security to be approved by two-thirds of directors in writing. Directors can not endorse for each other. Companies and firms of which directors are officers or members shall not borrow more than 10 per cent of capital. Officers violating subject to criminal prosecution.

How Incorporated under General Laws. Under the code of 1912, Section 2634, there is no distinction in the incorporation of banks from the incorporation of any other corporation. All corporations (except railroad, railway, turnpike, and canal companies) are organized under a general law. (See Corporations.)

Banking. Any person who draws upon a bank, person, firm or corporation any check, draft or order, not having sufficient funds on deposit with such person, to meet the same, and shall thereby obtain money or any other thing of value, shall be guilty of a misdemeanor and subject to fine and imprisonment, thirty days being allowed within which to make good to the drawee, in which case prosecution ends.

Banks. Banks are required annually to set aside not less than one-tenth of the annual net earnings until the surplus is equal to twenty-five per cent of the capital stock, and it is made the duty of a bank examiner to enforce this law.

State banks which have branches in more than one county in this State have recently been made subject to the same law which applies to textile manufacturers, fertilizer companies, etc., as to the returns upon their property and making them subject to the board of equalization of the State.

Any bank officer who issues to the comptroller general or any of his clerks or agents a false certificate of the amount of cash on deposit to the credit of any public officer for use in settlement with such public officer shall be guilty of a misdemeanor

Bank Examiner. Code 1912, Sec. 2643. The governor of the State shall appoint a competent person to examine, from time to time as hereinafter provided, into the affairs and the condition of all banks and banking institutions conducted by corporations or persons in this State. That in the selection of said bank examiner the governor may advise with the executive committee of the South Carolina Bankers' Association.

Sec. 2644. His duties shall be to examine fully and carefully and report the condition of all banks in the State.

Sec. 2645. Fixes compensation and terms of office.

Sec. 2646. Fixes time for examination, and mode of payment of salary and expenses by the banks.

Sec. 2647. Bank Examiner shall examine all Branch banks at least once a year. All such banks shall indicate on their stationery, checks, notes, advertisements, etc., the fact that they are branch banks and the name and place of business of the parent bank.

Sec. 2648. Upon discovery that such institution is insolvent or fraudulently or dishonestly conducted, the examiner may obtain order of court and take charge of and administer assets.

Sec. 2649. To make special examination upon petition of stockholders.

Sec. 2650. Examiner to be expert accountant and practical bank officer.

Sec. 2651 and 2652. Statements to be published when called for by examiner and at least once in each quarter.

Criminal code Sec. 209. Provides punishment for interference with examiner.

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Sec. 2653. Nothing contained in the Act shall apply to any national bank.

Sec. 2654. That all Acts and parts of Acts relating to the subject of bank examiner heretofore enacted in this State are hereby repealed.

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

Bills of Lading. The usual principles of mercantile law are applicable to bills of lading in this State.

Chattel Mortgages. The law n regard to chattel mortgages provides that in case the condition is broken the mortgagee appoints an agent with authority to foreclose, who immediately takes possession of the property and advertises the same for sale at a given date. Mortgagor has right to redeem property at any time before sale by paying debt and all costs. Chattel mortgages must be recorded within ten days in order to take effect from the day of their execution, but if recorded after such time they take effect as to third parties without notice only from the date of the record.

Claim and Delivery. The plaintiff in an action to recover the possession of personal property may at the time of issuing the summons or at any time before answer claim the immediate delivery of such property by making the necessary affidavit and executing bond in double the value of the property, and defendant may require redelivery of property by executing a like bond.

Collaterals. Collateral loans are allowed in this State. and collateral notes are commonly used.

Contracts. Every agreement whereby the vendor or bailor reserves any interest in personal property, must be recorded in the same manner as mortgages. This is not applicable to livery-stable keepers and inn keepers.

Conveyances. All conveyances of real estate must be signed and sealed by the grantor in the presence of two subscribing witnesses and recorded within ten days. If recorded after 10 days then they take effect as to third parties only from the date of record. If the grantor be married his wife must renounce her dower in a peculiar form prescribed by statute.

Corporations. Two or more persons desiring to form themselves into a corporation for any purpose whatsoever except railroad, railway, tramway, turnpike and canal corporations, and except also for municipal purposes, or one or more combined of any character whatsoever, may file with the secretary of state a written declaration signed by themselves, setting forth: First, the name and residences of the petitioners; second, name of the proposed corporation; third, place at which it proposes to have its principal place of business; fourth, the general nature of the business which it proposes to do; fifth, the amount of capital stock; sixth, the number of shares into which it is to be divided, stating the par value of each share; seventh, any other matter which it may be desirable to set forth. Upon the filing of the petition as above, and the payment of a fee of three dollars for recording of said petition, the secretary of state shall issue to the parties a commission constituting them a board of corporators and giving them authority to open books of subscription after public notice not exceeding ten days. A corporation can not be organized until 50 per cent of the proposed capital stock has been subscribed. Upon the completion of the organization and payment to the treasurer of the corporation of at least 20 per cent of the aggregate amount of the capital subscribed, the board of corporators or a majority of them shall, over their signatures, certify to the secretary of state that the requirements of this act have been complied with. The board of corporators on making their return shall pay to the secretary of state a charter fee: "When the said Charter is issued or renewed, the sum of one mill upon each dollar of the capital stock authorized up to and including $100,000; the sum of one-half of a mill upon each dollar of the capital stock exceeding $100,000 and up to and including $1,000,000; and the sum of one-fourth of a mill upon each dollar of the capital stock exceeding $1.000,000; for recording each declaration, petition or return precedent to the granting of any commission of corporators, charter, amendment of charter or increase, or decrease of capital stock, or renewal of charter, required by law to be recorded in said office, the sum of $2.50 for each paper so recorded; for filing each declaration or other paper, by any foreign corporation, $5.00; for filing each charter granted in another State and by-laws adopted thereunder, or either required by law to be filed, $5.00: Provided. That nothing herein contained shall be construed to apply to municipal charters: Provided, further, that nothing herein contained shall be construed to increase the fees for churches, lodges, colleges, schools or other eleemosynary organizations." No fee less than $5.00 in addition to the recording fee. Upon the filing of return and the receipt of the recording fee of three dollars and the charter fee hereinbefore specified the secretary of state shall issue to the board of corporators a certificate to be known as the charter, which must be recorded in the office of the register of mesne conveyance of each county where such corporation shall have a business office. Provided, that in cases when by the terms of the declaration the capital stock is to be paid in in installments, the charter may be issued when 50 per cent of the first installment has been paid in and the provisions of this are in other respects complied with. There is no stock liability in corporations organized under the constitution of 1895 and the of code of 1912 except in the case of banking corporations which has already been stated. The legislature is prohibited from passing any special charter for banking corporations, and all corporations must be organized under this act, except those enumerated above. As to dissolution of corporations, see Code 1912, 2812 to 2821.

Corporations. Unlawful discrimination for the purpose of destroying the business of any competitor in any locality by selling at a lower rate in one section than another is prohibited, and any person thus discriminating is subject to a penalty of not less than $500 or more than $5,000. In case of a corporation breaching this act, it becomes the duty of the secretary of the state to immediately revoke the permit of the corporation to do business in this State.

Corporations become subject to a penalty of not less than $500 if they pay any dividends unless actually earned.

Any officer of a corporation who wilfully uses the name of such corporation or his connection with it as officer thereof to obtain any credit or anything of value without authority from the corporation, shall be punished by imprisonment in the state penitentiary for not more than ten years.

The president or other officer who has the custody of the funds of any domestic corporation in this state shall annually make a report to each and every stockholder of such corporation who asks for it and a general itemized statement showing the actual assets and liabilities of the corporation and is guilty of a misdemeanor if he fails to comply with the request.

The act does not apply to railroads, banking or building and loan corporations.

Costs. Costs are allowed and follow the result of the action and are entered up in the judgment against the losing party.

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 magistrates. There is a probate court in each county, holding monthly sessions and possessing the usual powers. Magistrate's jurisdiction, $100. Actions to be tried in the county where land lies or in which the defendant resides.

Creditors' Bills. (See Suits.)

Days of Grace. Days of grace are not allowed in this State on any paper.

Deeds of Trust. Deeds of trust are sometimes used within this State, but the usual form is by way of mortgage, whether the same concerns either real or personal property, and a deed of trust for the purpose of securing a creditor would be construed by the courts to be a mortgage.

Depositions. Testimony of any witness may be taken in any civil action depending in the court of common pleas for any county in this State, by deposition de bene esse—when the witness lives without the county in which such cause is to be tried, or more than 100 miles from the place of trial, or is bound on a voyage to sea, or is about to go out of the State or county in which the cause is to be tried or when he is aged or infirm. The deposition may be taken before any circuit judge of this State, or any of the circuit courts, or any trial justice, notary public, chancellor, judge or justice of the supreme court, or chief magistrate of a city in any of the United States. Notice not less than ten days must be given to the opposite party, stating the time, place and name of witness.

Descent and Distribution of Intestate's Property. Property of person dying intestate shall be distributed as follows: Leaving a widow and children, one-third to the widow, remainder to the children; when he leaves no child, but a widow, father or mother, brother or sister of the whole blood, the widow is entitled to one moiety, and the other moiety goes to father, mother, brother or sister, children of a deceased brother or sister to represent parents; to take the share they would have been entitled to if living. When the intestate leaves no child or other lineal descendant, father, mother, brother or sister of the whole blood, but leaves a widow and brothers and sisters of the half blood and a child of a brother or sister of the whole blood, the widow takes one moiety and the other moiety is equally divided between the brothers and sisters of the half blood and the children of the brothers and sisters of the whole blood. If intestate leaves no child or lineal descendant, father, brother, mother or sister, the widow takes one moiety and the lineal ancestor the other. If intestate leaves no child or lineal descendants, father, mother, brother or lineal ancestor, the widow takes two-thirds of the estate and remainder goes to next of kin.

Descent and Distribution. Illegitimate children shall be heirs at law of the mother, so far as her property is concerned. The mother shall inherit from such child or children as if the child had been legitimate. In case of wrongful death of such child, or mother of such child, by negligent act of another such child or such mother shall have the same rights and remedies in regard to such wrongful death or negligent act as though the child had been born in lawful wedlock.

Dower. Widow is entitled to one-third for life, of the lands which her deceased husband was seized in fee at any time during their marriage.

Dower may be renounced by the wife, if she be without this State, by dedimus or before any minister, ambassador, consul general, consul. vice-consul, deputy consul, consular agent, commercial agent of the United States or any other officer appointed by the United States in foreign countries with the power to administer oaths and having an official seal, or a clerk of a court of record or before a notary public, who must each append to the certificate the official seal used by him.

Evidence. (See Depositions.)

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 ten 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.

Fidelity and Surety Bonds. Fidelity and surety companies are accepted as surety on all bonds of every description in this State, including stipulations and other bonds required in judicial proceedings, provided such foreign surety companies comply with the law governing foreign insurance companies.

Fire Insurance Companies are required in case of total loss to pay the full amount of insurance provided for in the policy, and a proportionate amount in case of partial loss. No statement in the application shall be held to prevent a recovery before a jury in case of partial or total loss, and after the expiration of sixty days the insurer is estopped to deny the truth of the statement in the application except for fraud.

Foreign Building and Loan Associations. Mortgages on lands in this state are subject to usury laws of this state. No greater rate than 8 per cent can be charged.

Foreign Corporations. All foreign corporations within sixty days from acquiring property or commencing business in this State, are required to file in the office of the secretary of state a written declaration designating some place within the State as principal place of business, at which all legal papers can be served, and also some authorized agent within the State upon whom process can be served to bind the corporation. A number of other requirements exist concerning the filing with the secretary of state of copies of the charter and by-laws and other matters of detail. The act is very mandatory in its provisions, and a fine of $500 is imposed for non-compliance.

Foreign Judgments. Foreign judgments may be sued on in this State and do not constitute a lien till judgment is recovered in this jurisdiction.

Fraud. The statute of frauds and perjuries, commonly known as "the Statute of Elizabeth," is of force in this State.

Garnishment. No garnishment law in this State. (See Attachment.)

Guaranty Companies. (See Fidelity and Surety Bonds.)

Holidays. National thanksgiving days and all general election days, the 1st day of January, the 19th of January, the 22d of February, 4th of July, 25th of December, first Monday in September, the 10th of May, and the 3d day of June of each year shall be legal holidays. In Charleston and Richland County every Saturday from 12 noon to 12 midnight is a legal half-holiday so far as regards commercial paper. Thursday in fair week in county in which State fair is held. No date fixed; usually in November, in Richland County.

Homestead. Real property of the value of $1,000 and personal property of the value of $500 shall be exempt from levy and sale.

Husband and Wife. (See Married Women.

Injunctions. Writs of injunction may issue according to the principles and course of the common law not inconsistent with the constitution, subject on motion of either party to re-examination, affirmation, or reversal and final adjudication by the proper jurisdiction.

Insolvency. (See Assignments and Insolvency.)

Insurance Companies. Recent act enacts that all suits brought against any and all fire, life or other insurance companies doing business in this State may be brought in the county where the loss occurred; providing further for a change of venue on certain conditions.

Interest. No greater rate of interest than 7 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 8 per cent may be charged. Any person or corporation

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receiving a greater rate of interest than 8 per cent shall not only forfeit the interest, but also double the sum so usuriously received, to be collected by a separate action or allowed as a counter-claim to any action brought to recover the principal. By act of 1898 the borrower, his heirs, devisees, legatees, personal representative, or any creditor can plead the benefit of this statute.

Investment Companies: Investment Companies, before selling or offering for sale any securities of its own issue, shall file in the office of the Insurance Commissioner a detailed plan of how it proposes to transact its business, a copy of all contracts, etc., which it proposes to make or sell with its contributors or customers, a copy of the prospectus and advertisement, the names of its officers, and an itemized account of its financial condition. If it is a foreign investment Company, it shall also file a copy of the laws under which it is incorporated and of its Charter and of its Constitution and Bylaws, and shall pay a filing fee of one-tenth of one per cent upon the face value of the securities for the sale of which application is made. The Insurance Commissioner shall be made the party upon whom process shall be served.

The Commissioner is authorized to investigate and upon the information to issue a license, and it is unlawful to advertise or offer securities without the Commissioner's certificate; and on or before the 1st day of April in each year a statement must be filed with the Commissioner showing the condition at the close of business on the preceding December 31st.

Judgments are a lien on lands within the county for ten years from the time of entry and may be renewed by process before expiration of ten years for ten years more, which lien may be extended to other counties by filing transcript.

Jurisdictions. (See Courts.)

License. Licenses are regulated by the municipal authorities.

Liens. Special liens are created by statute. There is a landlord's lien for his rent, the lien for agricultural advances, the mechanic's lien on buildings, the special statutory lien given both to the State, county, and certain of the cities for taxes. All employes in factories, mines, mills, distilleries, and all other manufacturing establishments, have a lien by statute upon all the output of such manufacturing establishments to the extent of their salary or wages, such lien to take precedence over all other liens except for taxes. Landlord's lien for rent extended to "his assigns."

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, slander, assault, battery, or false imprisonment, and actions upon a statute for a forfeiture or penalty to the State, two years.

Married Women. Article 17, section 9, of the constitution provides the real and personal property of a woman held at the time of her marriage, or that which she may thereafter acquire, whether by gift, grant, inheritance, devise or otherwise, shall be her separate property, and she shall have the rights incident to the same to which an unmarried woman or a man is entitled. She shall have the power to contract and be contracted with in the same manner as if she were unmarried.

Merchants. It shall be unlawful for any merchant or corporation engaged in buying and selling merchandise, while he or it is indebted to sell the entire stock of merchandise in bulk, or the major portion thereof otherwise than in the ordinary course of trade without his making a full and complete inventory, the values therein being set at the ruling wholesale prices thereof, and making also a full schedule of all persons, etc., to whom indebted, giving the postoffice address of each creditor and the amount owing. This to be done under oath. Seller to deliver said inventory and schedule to the proposed purchaser and they each to preserve such papers for six months after such sale and purchase, open to inspection of creditors. Ten days before conclusion of sale, seller and purchaser shall give written or printed notice of such sale and purchase to creditors named in said schedule. Such notice shall state aggregate value of merchandise, consideration and the time of making payment.

In failing to carry out these provisions such sale shall prima facie be presumed to be fraudulent and void as against creditors of the seller, and the merchandise wherever found shall be liable to such creditors, and if any of the merchandise be withdrawn by said purchaser, the purchaser shall be liable to said creditors personally to the extent of the value of the merchandise withdrawn. Notice sent by registered mail shall be conclusively presumed notice to the creditors to whom named.

Mines and Mining. Mines and mining of phosphate rock is regulated by the State by which a royalty is paid to the State on every ton so mined, to be paid by parties licensed to mine.

Mortgages. All mortgages, whether of real estate or chattels, must be recorded within ten 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.

Lands can not be sold under power contained in mortgage unless the mortgagor agrees in writing on the face of the mortgage to the amount due thereupon within twelve months.

Negotiable Instruments Law. The Negotiable Instruments Law as of force in most of the States was made of force in South Carolina, in April, 1914.

Notaries. Notaries are appointed by the governor and their term of office continues during the pleasure of the governor.

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. No protest is needed on an inland bill. On all bills of exchange drawn on persons resident within the United States, and without this State, and returned protested, the damage on such protested bill shall be 10 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 12 1-2 per cent. On all bills drawn on persons in any other part of the world, and protested, the damages shall be 15 per cent. Paper falling due on Sunday or legal holiday to be paid the next day thereafter. Instruments falling due on Saturday are to be presented for payment on the next succeeding business day except that instruments payable on demand may at the option of the holder be presented for payment before 12.00 o'clock noon on Saturday when that entire day is not a holiday." (Limited to Charleston and Richland County.) (See Holidays.)

Partnership, Limited and Special. Partnerships are formed; general partners only are authorized to transact business and sign for and bind the partnership. Special partners are not liable for the debts of the partnership beyond the funds so contributed to the capital.

Powers of Attorney. Powers of attorney to be effective in this State, if executed within the State, must be witnessed by at least one witness, and acknowledged before some officer qualified to administer an oath. If without the State, they must be witnessed by a commissioner of deeds of this State, or before a notary public having a seal of office whose official character is certified to by the clerk of a court of record, or before a clerk of a court of record with seal attached, the fact that he is the clerk of the court of record appearing on the certificate.

Probate Law. (See Wills.)

Protest. (See Notes and Bills.)

Recording Laws. (See Acknowledgments.) Registers of Mesne Conveyance are required to keep a file book in which shall be filed all conveyances, mortgages, liens, contracts and papers relating to real and personal property, by entering therein the names of the granter and grantee, mortgagor and mortgagee, obligor and obligee, date of filing, and nature of the instrument, immediately upon its lodgment for record; and such filing shall be notice to all persons sufficient to put them upon inquiry of the purport of the instrument so filed and the property affected thereby (Counties of Clarendon, Colleton and Sumter excepted).

A justice of the peace "who must append to the certificate his official seal" can now take probates without the limits of the State as well as within.

Contracts for conditional sales of personalty title being reserved in the vendor must, in order to protect as against subsequent creditors both lien creditors or simple contract creditors, be put upon record in the same manner as mortgages. Act not applying to livery stable people or persons renting out or hiring property for temporary use, or any personal property deposited as a pledge or collateral to a loan.

Records. The county and state officers are required to keep records in connection with their different offices. Attested copies of such records are good evidence in the courts of this State. Exemplifications of records of other states also allowed if allowed in the states from which copies are exemplified.

Redemption. (See Chattel Mortgages.)

Replevin. (See Claim and Delivery.)

Revision. The laws of this State are revised every ten years under the supervision of a code commissioner elected by the legislature.

Service. Service of process may be made by the sheriff or other disinterested person. A non-resident is served by publication.

Stockholders' Liability. Article 9, section 18, of State constitution provides that stockholders in banks or banking institutions shall be liable to depositors therein in a sum equal in amount to their stock over and above the face value of the same. Under A A of 22d of February, 1905, the stockholders of all insolvent banks and banking institutions, whether heretofore or hereafter incorporated, under act of assembly of this State, either general or special, shall be individually liable to the creditors thereof, other than depositors, only to the extent of the amount remaining due to the corporation upon the stock owned by them; provided, that stockholders in all such banks and banking institutions shall be liable to depositors therein in a sum equal in amount to their stock over and above the face value of the same.

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 January 1st of each year, and payable by 31st 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. Property must be listed for taxation between January 1st and February 20th of each year.

Testimony. (See Depositions.)

Transfer of Corporation Stock. Corporation stock is transferred on the books of the company by the owner of the stock or his duly appointed attorney.

Trust Companies. Trusts and combinations made with a view to lessen, or which tend to lessen full and free competition in the importation, sale, or manufacture of articles, or that may lessen or affect in any manner full and free competition in any tariff rates, tolls, premiums, or prices, or seek to control them in any way, in any branch of trade, business, or commerce, are prohibited under penalties.

Warehouse Receipts. Warehouse receipts are negotiable unless otherwise specified on their face.

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.

Typewriting is authorized by the statute.

SYNOPSIS OF

THE LAWS OF SOUTH DAKOTA

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by Messrs. BAILEY & VOORHEES, Attorneys at Law, Sioux Falls. (See Card in Attorneys' List.)

Acknowledgments. The official should certify that before him "personally appeared ....., known to me to be the person who is described in and who executed the within instrument, and acknowledged to me that he executed the same;" and in the case of a corporation, that before me personally appeared ....., known to me to be the president (or secretary) of the corporation that is described in and that executed the within instrument, and acknowledged to me that such corporation executed the same.

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Actions. South Dakota is a code state and all distinctions between actions at law and suits in equity, as to the forms of such actions and suits, are abolished. A non-resident plaintiff must give security for costs upon order of the court made upon application of the defendant.

Administration of Estates is had in the county court. Notice for proving claims must be given by publication for four weeks. In all estates under $5,000 in value claims must be presented within four months from the first publication of the notice; in estates exceeding $5,000 in value, within six months from such publication. There is no public administrator.

Affidavits. An affidavit may be made in and out of this State before anyone authorized to administer an oath, and must be authenticated in the same way.

Aliens. Any person, whether citizen or alien, may take, hold, and dispose of property, real or personal, within this State.

Arbitration. There is no provision in the code for arbitration. An agreement to submit a controversy to arbitration can not be specifically enforced.

Arrest. In certain classes of civil actions chiefly those in which fraud enters, the defendant may be arrested. This remedy is seldom used and the procedure is technical. A bond must be given by the plaintiff before the arrest can be made.

Assignments and Insolvency. A law providing for assignments for the benefit of creditors is in force. The assignee acts under the direction of the circuit court. The operation of the law has been practically suspended by the National Bankruptcy Act.

Attachment process issues at the time of issuing the summons or at any time afterward in all actions against a foreign corporation which has not complied with the laws of this State relative to the appointment of agents upon whom service of process may be made (see Corporations, Foreign, post), or non-resident defendant, or when defendant 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, or secreted any of his or its property, or is about to do so with intent to defraud creditors. Plaintiff must make affidavit and furnish bond in not less than $250, and at least the amount claimed in circuit courts, and at least $50 and not exceeding $300 in justice's courts. Real and personal property, debts, moneys, credits, and bank-notes may be attached or levied on under execution or attachment.

Banks. Banking associations may be formed to do general banking except issuing bills as money. Capital required is graded: Towns of 1,500 or less, at least $10,000; towns of over 1,500 and not more than 2,500, at least $15,000; towns of over 2,500 and not less than 5,000, at least $25,000; and in towns of over 5,000, at least $50,000. Shares of stock must be $100 each. Each director must own at least five shares of stock. Each shareholder is individually responsible, equally and ratably and not one for the other, for the benefit of creditors of the bank to the amount of their stock, at par value thereof, in addition to the amount invested in said stock.

Collaterals. There are no statutory provisions concerning them. The common law governs.

Conditional Sales. All sales of personal property where the possession is delivered to the vendee on condition that the title shall remain in the vendor until the purchase money is paid shall vest such title in the vendee as to third persons without notice of such conditions, unless such contract is in writing and filed with the register of deeds of the county where the vendee resides.

Consignments. There are no penal provisions regarding consignments.

Conveyances. Conveyances of real estate or mortgages thereof must be by an instrument in writing, subscribed by the party disposing of the same, or by his agent having written authority. To entitle such conveyance to be recorded, it must be acknowledged as provided by law. (See Acknowledgments.) The seal of a grantor or mortgagor is not required, and its absence does not invalidate or in any manner impair a conveyance. Every conveyance of real estate other than a lease for a term not exceeding one year, is void as against any subsequent purchaser or encumbrancer, including an assignee of a mortgage or lease, in good faith and for a valuable consideration, whose conveyance is first duly recorded. The word "conveyance" embraces every instrument in writing by which any estate or interest in real property is mortgaged, aliened, or encumbered, or by which the title to any real property may be affected, except wills, executory contracts of sale and powers of attorney. An instrument containing a power to convey, or to execute instruments affecting real property, can not be revoked except by an instrument in writing, properly acknowledged and recorded in the same office in which the instrument containing the power was recorded. Real estate may be conveyed or mortgaged by the owner thereof alone, unless the same is a homestead, when both the husband and wife must join in the conveyance or incumbrance. A conveyance need not be witnessed. The only instruments which need be witnessed in this State are chattel mortgages, satisfactions thereof, and wills, which must have two witnesses. Quitclaim deeds, unless otherwise stated therein, have substantially the same effect as special warranty deeds. Deeds executed subsequently to June 30, 1911, to be entitled to record, must contain the postoffice address of the grantee.

Corporations. Corporations are formed under general laws, and can be formed by the association of three or more persons for the following purposes: Mining, manufacturing, and other industrial pursuits, and for any other lawful business; the construction or operation of railroads, wagon roads, irrigating ditches; for colleges, seminaries, churches, libraries, benevolent, charitable, and scientific associations; for conducting the business of insurance, banks of discount and deposit, and for loan, trust, and guarantee associations. The articles of incorporation must show the name of the corporation, the purpose for which it is formed, the place where its principal business is to be transacted, the term for which it is to exist, the number of its directors, and the names and residence of such of them who are to serve until the election of such officers; the amount of its capital stock and the number of shares into which it is divided. The articles of incorporation of any railroad or wagon road must also state the kind of road intended to be constructed, the place from and to which it is intended to be run, the counties through which it is intended to be run, and the estimated length of the road. The articles must be subscribed by three or more persons, one-third of whom must be residents of the State and acknowledged before some competent officer. The articles must be filed with the secretary of state, and can be amended at any regular annual meeting of the stockholders, or at a special meeting called for that purpose. Each stockholder is individually and personally liable for the debts of the corporation to the extent of the amount that is unpaid upon the stock that is held by him.

Corporations, Foreign. No foreign corporation, unless it be created for religious and charitable purposes only, or unless its business in the State consists exclusively in loaning money on real estate security, shall transact any business within this State (except such as comes within the commerce clause of the Federal Constitution, not affecting the police powers of the state) or acquire, hold and dispose of property, real, personal or mixed, within this State, or sue or maintain any action at law or otherwise, in any of the courts of this State, until such corporation shall have filed in the office of the secretary of state a duly authenticated copy of its charter or articles of incorporation, and shall have appointed some resident of this State as its agent for the service of process in any action in this State in which said corporation may be a party. Said appointment must be filed in the office of the secretary of state and in the office of the register of deeds of the county wherein said agent resides.

Courts. Terms and Jurisdiction. Circuit courts, except in the cases hereinafter stated in which their jurisdiction is concurrent with the county and municipal 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; they have no civil jurisdiction in counties of a less population. Justice's jurisdiction, $100. Circuit courts also have concurrent jurisdiction with justices' courts for sums less than $100. Municipal Courts, which exist in a few cities, have concurrent jurisdiction with the Circuit Court throughout the county in which the city is located, in civil cases in which the amount involved is five hundred dollars or less.

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 a 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 must be 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, indorsed 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.

Descent and Distribution of Property. The property both real and personal, of one who dies without disposing of it by will, passes to the heirs of the intestate, subject to the control of the probate court, and to the possession of any administrator appointed by that court for the purpose of administration; and descends, and must be distributed, in the following manner: If the decedent leave 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 the decedent leave a surviving husband or wife and more than one child living, 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 his children, and to the lawful issue of any deceased child; if the decedent leave no surviving husband or wife, but leaves issue, the whole estates comes to such issue; if the deceased leaves no issue and the estate does not exceed $5,000, all the estate goes to the surviving husband or wife; if the estate exceeds $5,000, the first $5,000 goes to the survivor, and of the excess, one-half goes to the survivor and the other half to the decedent's father and mother in equal shares, and if either is dead, the whole of such other half goes to the other, but if neither such father nor mother survive, such other half goes in equal shares to the brothers and sisters of the decedent, and to the children of any deceased brother or sister. If decedent leave no issue, nor husband, nor wife, the estate comes to the father and mother in equal shares, or if either is dead, then to the other; if there be no issue, husband, wife, father, nor mother, then in equal shares to the brothers and sisters of decedent, and the children of any deceased brother or sister, by right of representation. If the decedent leave a surviving husband or wife and no issue, and no father mother brother, or sister, the whole estate goes to the surviving husband or wife. If the decedent leave no husband, wife, or kindred, the estate escheats to the State for the support of common schools. Kindred of half blood inherit equally with those of whole blood in the same degree, unless the inheritance came to the intestate by descent, devise, or gift of some one of his ancestors, in which case persons not of the blood of such ancestor are excluded.

Dower. Dower and curtesy are abolished.

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 justice's 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.

Exemptions allowed are a homestead not exceeding one acre in area, if within a town plat, or 160 acres if not. The homestead exemption is limited to $5,000 in value. Certain personal property is absolutely exempt, such as family pictures, school books, lot in a family burying ground, etc. Additional personal property exemptions to the amount of $750 are allowed and may be claimed to the head of a family, and to a single person to the value of $300. In lieu of the same certain specific articles may be selected and held as exempt.

Garnishment. This remedy lies in all courts, upon affidavit for in showing indebtedness, and that some person or corporation within the State 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 sureties, that the judgment if recovered will be paid. The garnishee may defend for himself.

Husband and Wife. (See Married Women, post.)

Interest. Legal rate, 7 per cent; but parties may contract in writing for 12 per cent. Usury forfeits all interest. Interest on open accounts runs from date of last item charged, whether debit or credit. Legal rate allowed on judgments is 7 per cent from date and after property sold on execution during the year of redemption, 7 per cent.

Judgments of courts of record are a lien on all real estate in the county where the judgment was recovered and in the counties to which it is transcripted, except the homestead for ten years from time such judgment is docketed in the clerk's office of the county where the judgment was entered and 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.

Liens. Mechanics, laborers, and furnishers of material, machinery, or fixtures, by virtue of any contract with the owner, his agent, trustee, contractor or sub-contractor, for any building, erection, or other improvements upon land, have for labor done or material, machinery, or fixtures furnished, a lien upon such building, erection, or improvement, and upon the land belonging to such owner on which the same is situated, to secure the payment of such labor, materials, material machinery, or fixtures furnished. A verified account of the amount

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of the lien claimed must be filed in the office of the clerk of the circuit court of the county wherin the property is located witain ninety days after such materials shall have been furnished and labor performed. No person is entitled to mechanic's lien who has taken collateral security upon the same contract. Any person owning and operating a thresning machine may have a lien upon the grain threshed by tne machine for the threshing thereof.

Limitations. Personal actions, two years; on contracts or obligations, six years: on sealed instruments and action affecting real property, twenty years, and on judgments, or decrees of any court other than the courts of this State, ten years: of the courts of this State, 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. 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 on real property are executed same as deeds. The execution of a mortgage upon a homestead, even though if be for part of the purchase price, by both husband and wife is necessary to its validity. Mortgages containing a power of sale may be foreclosed by advertisement. Chattel mortgages must be executed in the presence of two witnesses and it must appear from the mortgage that duplicate of it has been received by the mortgagee. The mortgage is void as against creditors and subsequent purchasers and encumbrancers in good faith and for value unless it is filed in the office of the register of deeds of the county where the mortgaged property is situated. The mortgage outlaws unless within thirty days next preceding the expiration of three years from the time of filing an affidavit for renewal showing the amount then due, is filed in the office of the register of deeds. This renews the mortgage for three years. Chattel mortgages may be foreclosed by advertisements. Real estate mortgages and assignments thereof, to be entitled to record, must contain the postoffice address of the mortgagee or assignee, as the case may be.

Notes and Bills of Exchange. The uniform Negotiable Instruments Law has been in force since July 1, 1913.

Powers of Attorney. A power of attorney to convey or mortgage real property must be acknowledged and recorded in the office of the register of deeds of the county in which the property is situated and can only be revoked by an instrument in writing acknowledged and recorded in the same office. (See Acknowledgments and Conveyances.)

Probate Law. (See Administration, Descent and Distribution, and Wills.)

Protest. (See Notes and Bills of Exchange.)

Redemption. A judgment debtor or his successor in interest or a creditor having a subsequent lien by mortgage or judgment may redeem from the sale of real property under execution or foreclosure within twelve months from the date of sale. Successive redemption may be made by such creditors within sixty days after the preceeding redemption. There is no right of redemption in case of a sale of personal property.

Replevin. Personal property wrongfully taken or detained may be replevined by the owner or party entitled to possession. A replevin bond in double the value of the property must be furnished.

Sales in Bulk. A bulk sales law is in force.

Sales of Securities. A law regulating the sale of certain classes of securities, commonly spoken of as a blue-sky law, is in force.

Taxes become due and payable on the first day of January, and delinquent on the first day of April, following and draw 12 per cent interest thereafter until paid, or the land is sold as hereinafter stated, the interest being added on the first day of each month. Lands are sold on the first Monday of December following, and may be redeemed within two years by payment of purchase money and interest at the rate of 15 per cent per annum (sometimes less, depending on the terms of the sale) and all taxes subsequently paid. Taxes become a lien on real property as between vendor and vendee on the first day of January, and if personal property taxes are not paid by the first day of July the county treasurer, who is the tax collector, may proceed to enforce the collection of them by distress and sale. An inheritance tax law went into effect July 1, 1905. The tax depends upon the value of the property and the degree of relationship.

Warehouse Receipts. The uniform Warehouse Receipts Law has been in force since July 1, 1913.

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. Unless the will be an holographic will, 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 attorney. 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 to 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 injury received the same day.

SYNOPSIS OF

THE LAWS OF TENNESSEE

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by WALTER STOKES, Attorney at Law, Nashville. (See Card in Attorneys' List.)

Acknowledgments within the State must be taken before a chancellor or judge of any court of record, 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, and this must state when such officer's commission expires. If before a judge of a court of record, his official character must be certified to by the clerk of his court, under his official seal, or private seal, if there is no official seal, or by the governor of his State, under the great seal of said State. If before a clerk of a court of record, and certified by him under his seal of office, the judge, chief justice, or presiding magistrate shall certify to the clerk's official character. If made out of the United States, must be under seal before a commissioner of Tennessee, notary public, or an ambassador, minister, or consul of the United States.

Actions. All contracts may be sued on in the same form of action The common law forms and pleadings modified by statute are used. Non-residents must in all cases give bond.

Administration. Letters of administration ar 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 and personal, except what is exempted and what widow takes, are assets for payment of debts. Preferred debts are, funeral expenses, expense of administration, and debts due the State. (For widows' rights, see Husband and Wife.) Insolvent estates, not exceeding the value of $1,000, may be administered in county courts. Of such estates of greater value, county and chancery court have concurrent jurisdiction. Executor or administrator makes suggestion of insolvency to county court; clerk thereupon requires executor or administrator to give notice in a newspaper published in the State and at court house door of the county for creditors to file their claims, by a day fixed in said notice, which day shall not be less than three. nor more than six months after day of said notice. and any claim not filed on or before said day, or before a distribution of the funds is made, is forever barred in both law and equity. The assets of insolvent estates, after preferred debts above enumerated and exempt articles are deducted and widow's rights are allowed, are divided ratably among the creditors, whose claims have been properly filed. (For claims against executors or administrators of other estates, see Limitations of Suits.)

Affidavits may be taken in another State of the Union, or foreign country, for use in this State, before a commissioner of Tennessee. Answers and other pleadings in chancery, may be sworn to before a commissioner of Tennessee, notary public, justice of the peace, judge of a court of record, or clerks of such court, or special commissioner appointed by Tennessee court or clerk. The certificate of the commissioner, notary public, and clerk must be under seal of office. The certificate of the judge or justice of the peace must be authenticated by the certificate of the clerk of the court wherein the judge or justice presides.

Aliens. An alien, resident or non-resident, may take and hold property, real or personal, in this State, either by purchase, descent, or devise and dispose of and transmit same by sale, descent, or devise, as a native citizen.

Assignments. The Act of 1895 regulating general assignment was declared unconstitutional by the supreme court and the Act of 1881 goes back into effect. Under this act, preferences in general assignment are not allowed but special assignments are made with preferences, and under these the act of 1881 as to general assignments is practically rendered nugatory.

Attachment process will issue when the debtor resides out of the State; is about to remove, or has removed himself or property out of the State; has removed or is removing himself from the county privately; is concealing himself, so that the ordinary process of law cannot 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 debts, 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, as accommodation endorser 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 said State. Debts due and owing to the defendant, and property of the defendant of any kind in the hands of a third person, are subject to garnishment. Statutory liens on personal property, when no method of enforcing same has been provided by the statute creating them, may be enforced by original attachment levied on property on which lien exists, whether in hands of creditor, owner, or other party not an innocent purchaser. A foreign corporation, having complied with law of Tennessee, and doing business therein, and having no agent in county in which suit is brought upon whom process can be served, may be proceeded against by attachment.

Banks. 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.

Any company incorporated under the laws of Tennessee, having, by its charter, the right to receive money in trust or otherwise, has the power to receive deposits and loan same, and its capital on any kind of commercial or business paper or real estate, buy and sell exchange, and all kinds of public or private securities and commercial paper. 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. Allow 3 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. There is no law regulating the class of bonds in which savings banks may invest.

The Legislature of 1913 passed an act creating a Banking Department to regulate, examine, control and supervise banks (see Chapter 20, Senate Bill 174, Acts of Tennessee, 1913). Under this act every corporation doing a banking business under the laws of the State of Tennessee, whether private or incorporated, shall be subject to the supervision and inspection of the Superintendent of Banks, who shall examine every banking concern in the State at least twice each year. The word "bank" or "banker" means every trust company, loan company, mortgage security company, safe deposit company, receiving money on deposit and every individual, firm or corporation doing a banking, loan or discount business and receiving money on deposit and performing the functions of a bank. The Superintendent of Banks shall also have the power to examine every agency of any foreign bank located in the State. If the Superintendent of Banks finds upon examination that a bank is in an unsafe condition or is insolvent or unable to meet its obligations in the ordinary course of business, he shall require the bank or its officers or directors to execute a good solvent bond in an amount sufficient to protect its depositors and other unsecured creditors. In case the bank refuses or fails to thus protect its despositors, the Superintendent of Banks shall file a petition in the Chancery Court, requiring the bank to show cause within five days why it should not be adjudged insolvent. Pending the hearing or the preparation of bond, the Superintendent of Banks shall take charge of the affairs of the bank and hold them in status quo. No "bank" shall reduce its cash on hand below 10 per cent of its

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demand deposits, although the bank may include in its cash the amount of money on deposit on demand with other responsible banks. Every bank must make, on the call of the Superintendent, two reports each year, according to the form and at the time prescribed by the Superintendent, one of these calls shall be in the first half of the year and the other in the latter half of the year. The expenses of the Banking Department are to be defrayed by the banks of the State in proportion to each bank's combined capital, surplus and undivided profits, the amount per bank ranging from $10 per year for a bank with $10,000 capital, surplus and undivided profits to $500 per year for a bank whose capital, surplus and undivided profits are $1,000,000 or more.

Bills and Notes. By act of legislature, passed April 6 1899, chapter 94 of laws of 1899, a general law relating to negotiable instruments was passed, "Being an act to establish a law uniform with the laws of other states on that subject." An instrument to be negotiable must conform to the following requirements: 1. It must be in writing, and signed by the maker or drawer. 2. Must contain an unconditional promise or order to pay a certain sum in money. 3. Must be payable on demand, or at a fixed or determinable future time. 4. Must be payable to order or bearer. 5. Where the instrument is addressed to a drawee, he must be named or otherwise indicated therein with reasonable certainty. Negotiability is not affected by a provision authorizing sale of collateral securities, or confession of judgment, or which waives benefit of any law intended for the protection of the obligor, or gives the holder an election to require something to be done in lieu of payment of money. Every negotiable instrument is payable at the time fixed therein, without grace. When the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day. Instruments falling due on Saturday are to be presented for payment on the next succeeding business day, except that instruments payable on demand may, at the option of the holder, be presented for payment before 12 o'clock noon on Saturday, when that entire day is not a holiday. Notice of non-payment must be given to the drawer and to each indorser. For details of the law of bills and notes, reference is made to chapter 94, of the laws of Tennessee, 1899.

Conveyances. A fee simple estate is presumed to pass by grant of real property, unless it appears from the grant that a less estate was intended; and word "heirs" not necessary to create fee simple estate. Wife must join to convey homestead. Private seals are abolished. No attesting witnesses required by law. Deed should contain covenant of seizin. (See Acknowledgments.)

Corporations. Private corporations, for a variety of purposes embracing every industry, may be formed 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 Tenessee 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 said county the certificate of registration given by the secretary of state, and a facsimile of the State seal. The amount of capital stock cannot be less than $1,000, and may be changed and new powers added by the board of directors under resolution of stockholders authorizing 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.

Foreign Corporations. Every foreign corporation desiring to carry on business in Tennessee shall first file in the office of the secretary of state a copy of its charter, and shall file for record in the register's office of each county where said corporation purposes to do business an abstract of its charter. It is unlawful for such corporation to do business in Tennessee without having first complied with this provision, and a failure to do so subjects the offender to a fine of not less than $100 nor more than $500.

By the acts of 1907, chapter 434, it is provided that all corporations, both foreign and domestic, doing business in Tennessee, shall, in addition to the foregoing, on or before the first day of July, in each year, file with the secretary of state a written statement signed by its president, or vice-president, attested by its secretary, and sworn to by either, which shall state the name and style of the corporation, its principal office or place of business in the State of its creation, and also in the State of Tennessee, the amount of its capital stock authorized by its charter, the amount of capital stock issued and outstanding, and the names of its principal officers, viz: The president, vice-president, secretary and treasurer, and a list of its board of directors, and the nature and character of the business in which it is engaged. A penalty is provided for a refusal to comply with the above.

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.

Days of Grace. (See Bills and Notes.)

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. May be taken by any judge, notary public, commissioner of Tennessee, justice of the peace, mayor or chief magistrate of a town or city, the clerk of any court, or other person properly commissioned or appointed by the court or clerk, not being interested, or counsel, or related to either of the parties within the sixth degree, computing by the civil law. When taken by a notary public in another state his certificate shall show the date of the commencement and expiration of his commission. 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. Form of Caption: A. B. vs. C. D. In the....Court,.... county, Tennessee. Deposition of....., witness for plaintiff, (or defendant) in the above case, taken upon notice, (or interrogatories on the....day of...., 18..(giving date specified in the notice), at (place specified in the notice), in the presence of plaintiff and defendant (show the fact). The said witness,.....aged...., being duly sworn deposed as follows: (here follows deposition). Closing certificate: The foregoing deposition was taken before me, as stated in the caption, and reduced to writing by me. (or by witness). And I certify that I am not interested in the cause, nor of kin or counsel to either of the parties, and that I sealed them up and delivered them to (or put them in the post-office or express office) without being out of my possession, or altered after they were taken. Given under my hand, this ....day of ....A. D. 18... (Signature and title.)

Descent and Distribution. Real estate, real property, and lands, include lands, tenements and hereditaments, and all rights thereto, and interest therein, equitable as well as legal. The land of intestate owner is inherited in the following manner: Without reference to source of intestate's title, by all the sons and daughters of deceased, to be divided among them equally. And if any child of said intestate shall have died in his lifetime, his lineal descendants shall represent their parent and be entitled to same portion of the estate of the deceased as their parent would have been entitled to if living. If there be no issue or brothers or sisters, nor their issue, and either parent be living, then by such parent. If the estate was acquired by the intestate, and he died without issue, his land shall be inherited by his brothers and sisters of the whole and half blood born before his death or afterward, to be divided among them equally. And if any such brother or sister died in the intestate's lifetime leaving issue, said issue shall represent their deceased parent, and be entitled to the same part of the estate of the uncle or aunt, as their father or mother would have been entitled to, if living. In default of brothers and sisters and their issue, the land shall be inherited by the father and mother of the intestate as tenants in common. If both be dead, in equal moities by the heirs of the father and mother in equal degree, or representing those in equal degree of relationship to the intestate; but if such heirs, or those they represent, do not stand in equal degree of relationship to the intestate, then the heirs nearest in blood, or representing those who are nearest in blood, to the intestate shall take in preference to others more remote.

Where the land came to the intestate by gift, devise, or descent from a parent, or the ancestor of a parent, and he die without issue: (a) If he have brothers or sisters of the paternal line of the half blood, and brothers or sisters of the maternal line also of the half blood, then the land shall be inherited by such brothers and sisters on part of the parent from whom the estate came, in the same manner as by brothers and sisters of the whole blood, until the line of such parent is exhausted of the half blood, to the exclusion of the other line. (b) If he have no brothers or sisters, then it shall be inherited by the parent if living, from whom or whose ancestors it came, in preference to the other parent. (c) If both parents be dead, then by the heirs of the parent from whom or whose ancestor it came. The personal estate as to which any person dies intestate, after the payment of the debts and charges against the estate, shall be distributed as follows: 1. To the widow and children, or the descendants of children representing them equally, the widow taking a child's share. 2. To the widow altogether, if there are no children or descendants of children. 3. To the children or the descendants, in equal parts if there is no widow; the descendants taking in equal parts the share of their deceased parents. 4. If no children to the father. 5. If no father to the mother, and brothers and sisters, representing them equally; the mother taking an equal share with each brother and sister. 6. If no brothers or sisters or their children, exclusively to the mother; if no mother, exclusively to the brothers and sisters or their children representing them. 7. If no mother, brother or sister, or their children, to any of the next of kin of the intestate, who are in equal degrees, equally. There is no representation among collaterals after the brother's and sister's children.

Dower. (See Married Women.)

Executions may issue from Justice of the Peace Court afetr two days and from County Court after ten days, and from all other courts after thirty days from rendition of judgment. Executions from Justice of Peace returnable in thirty days, from Circuit and Chancery Courts to the first day of the next term. 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.

Homestead of value $1,000 in real estate, legal or equitable, is reserved to the head of a family, exempt from sale under legal process during his life. At a husband's death it inures to the benefit of his wife and children, free from the claims of creditors. It may be sold by joint consent of husband and wife, when that relation exists, evidenced by conveyance, duly executed as required by law for married women. It is liable for taxes and purchase money, or money paid for improvement thereon.

Husband and Wife. Husband is not liable for ante-nuptial debts of his wife, but his marital rights do not so attach to her property as to defeat the collection of same. Wife's personalty cannot be subjected to the payment of husband's antenuptial debts. Wife can hold real and personal property separate from the husband and not liable for his debts. Rents and profits of wife's, and not subject to husband's debts, nor can the husband's marital interest in wife's land be sold during her life. Wife can dispose of her separate estate by deed or will unless the power so to do is expressly withheld in the instrument creating it. Husband has curtesy, as at common law. Wife has dower, which is one third or life of real estate, both legal and equitable, of which her husband died seized and possessed. At husband's death, homestead inures to benefit of wife and children. Widow of intestate entitled to year's support, and exempt personal property of husband for benefit of herself and children. Life insurance effected on life of husband, by either husband or wife, this death inures to the benefit of his widow and children, free from claims of his creditors. Married women are under no disability on account of coverture; they can acquire, hold, use and dispose of property, real and personal, contract in reference to it, bind themselves personally and can sue and be sued just as if they were not married.

Interest. Legal rate, 6 per cent. Contract for more is void as to excess, and an instrument showing usury on its face cannot 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.

Limitation 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 and sued on in two years, if a resident, and three years if a non-resident after qualification, but no suit can be brought within six months after such qualification. Continuous adverse possession of real estate for seven years, under color of title, makes a title.

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 thirty 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 ninety 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.

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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 cannot 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. Equity of redemption may be waived, in deed of trust, and on default realty may be sold thereunder by trustee, free therefrom, for cash or otherwise, due advertisement having been made. When mortgages foreclosed in court, property may be sold if equity of redemption not waived on credit of not less than six months nor more than two years, and in bar of all equity of redemption, personal security being required of vendee and lien being retained on land to secure purchase money. Otherwise mortgagor has two years to redeem.

Partnership. Limited partnership may be formed for transaction of any mercantile, mechanical, manufacturing, agricultural, or mining business in this State; but not for carrying on business of banking and insurance. The articles of co-partnership must specify the name of the firm, and of each individual partner, and his place of residence, general nature of the business, amount of capital each partner has contributed to common stock, and the period at which partnership is to commence and terminate. Articles must be acknowledged by each partner and registered in every county where firm has a place of business. Terms of partnership must be published for six weeks, immediately after registration, in a newspaper, to be designated by register. At time of filing original articles for registration, an affidavit of a general partner must be filed in same office, stating that the sums specified in the articles to have been contributed by each partner to common stock, were actually and in good faith contributed and in cash. If all formalities are not complied with, or are violated, the special or limited partner will be liable as a general partner.

Power of Attorney. All powers of attorney authorizing the sale, conveyance, and transfer of real estate must be registered. Other powers of attorney may be registered. Cannot be made by married women.

Protest. (See Bills and Notes.)

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. Under the act of 1907, after the first Monday in July of the year after that for which the taxes are assessed, all real estate upon which taxes have not been paid may be sold at public auction to the highest bidder after advertisement by the county trustee of the county in which the land lies. The delinquent taxpayer has two years from the date of sale in which to redeem the property by paying taxes, interest, cost and penalties.

Wills. No will can convey an estate in lands unless written in testator's lifetime 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 hand of another for safe-keeping, shall be good and sufficient to give and convey lands, if the hand-writing 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.

SYNOPSIS OF

THE LAWS OF TEXAS

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by Messrs. COCKRELL, GRAY & MCBRIDE, Attorneys at Law, Dallas, Texas. (See Card in Attorneys' List.)

Accounts, How Sworn To. Open accounts, for purposes of suit, should have attached the affidavit of the plaintiff, his agent or attorney, 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 affidavit should allege the fact. Such affidavit is prima-facie evidence in all commercial accounts, unless denied under oath, but not in an isolated transaction based on special contract

Acknowledgments of instruments for record may be made out of the State, but within the United States, or territories, before clerk of some court or record having a seal, commissioner of deeds, for Texas, notary public; without the United States, before a minister, commissioner, or chargé 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, in the county for which appointed. Acknowledgment should state:

Before me ..... (giving name and character of officer) on this day personally appeared ..... known to me to be the person whose name is subscribed to the foregoing instrument, and * he (or she) acknowledged to me that he (or she) executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this .... day of .... 18..

[Seal.] [Name of officer and official character.]

For a married woman's acknowledgment proceed after * as follows: and known to me to be the wife of .....; and having been examined by me privily and apart from her said husband, and having the same fully explained to her, she, the said ..... acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it. Care should be taken to see that matters certified to in a married woman's acknowledgment are strictly followed as a proper acknowledgment and certificate are necessary to render her conveyances valid.

Given, etc. (as above).

Actions. The distinction between law and equity proceedings does not exist in Texas. All forms of action are abolished. To compel defendant to appear at any term of the court he must have been cited ten days before the term begins. Service by publication not good except in proceedings in rem., which by statute are made to include suits to determine the title to, or incumbrances upon, property within this State.

Administration of Estates. Letters testamentary or of administration may be granted within four years after the death of a party. They issue to persons who are qualified to act in the following order. 1. To the executor named in the will. 2. Surviving husband or wife. 3. Principal devisee or legatee. 4. Any other devisee or legatee. 5. Next of kin. 6. Creditor. 7. Person of good character residing in the county. The county court acts as a court of probate in all matters pertaining to estates of decedents, testate or intestate, and, unless the will dispenses with such supervision, administrators must furnish bond in double the amount of the estate. Surviving husband or wife qualifying as such must give bond in a sum equal to the value of the estate. Wills may by express provision dispense with administration, other than probating the will and filing of inventory and appraisement, and confer independent administration on the executor. Foreign executors, administrators or guardians are not recognized by the Court of Texas and as such may not transact business in Texas.

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, in the county for which appointed; 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 chargé 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 12, 1892, 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 12, 1892, which are situated in an incorporated or platted city, town, or village.

Aliens who are bona-fide residents of Texas may, during such residence, own lands the same as citizens.

Non-resident aliens who, since July 12, 1892, acquire lands by purchase or inheritance 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 the lands are subject to escheat to the State.

Aliens may acquire title to lands, or an interest therein, in the ordinary course of justice, or acquire and enforce liens, or lend money upon real estate.

Appeals. (See Courts.)

Arbitration. The statutes provide for arbitration, the award made in such cases, if the proceeding was in compliance with the statute, becomes the judgment of the court in which it is filed.

Arrest. The Texas laws do not authorize an arrest in civil matters, except for contempt of court.

Assignments and Insolvency. (See Insolvent and Assignment Laws.)

Attachments. Debtors' property can be attached on certain statutory grounds of fraud alleged under oath of creditor and bond in double the amount of the debt. Attachment, now, may also issue upon unliquidated demands when the defendant is a non-resident. Bankruptcy has practically suspended use of writs of attachment.

Banks. The constitution of 1876, that prohibited incorporating for state banks, has been amended and legislature of 1895 passed a banking act that authorizes incorporating in Texas, for banking and discounting powers and privileges, to which may be added trust company, surety company, fidelity and guaranty company powers and privileges, as defined in the act and with power to act as executor, administrator, guardian, receiver, assignee, trustee, depository, and other fiduciary relations as therein defined. The law also provides for savings banks which are not to have discount privileges, and also prohibits any banks other than national banks, incorporated out of Texas, to do business in the state, and requires private individuals doing a banking business, to use the word "unincorporated," and provides for penalties for any breach of any provision of the act. Also provides for supervision by state by inspection of all corporations under the act. Laws have recently been enacted to encourage State Banks to become members of Federal Reserve Bank System, giving them powers somewhat similar to those given National Banks by such Act.

Bills of Exchange. (See Days of Grace, Notes and Bills of Exchange, Protest.)

Bills 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 condition of the goods; and such goods shall be delivered in the manner provided by common law in like order and condition to the consignee. Liability as at common law for damages. Bill of lading is prima-facie evidence of ownership of goods in transit by the consignee. Carriers can not restrict their common law 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. Bills of lading are negotiable paper.

Chattel Mortgages and Deeds of Trust of Personal Property, 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 are held to be chattel mortgages, and are, when possession is delivered to the vendee, void as to creditors and bona-fide purchasers, unless such reservation be in writing, and filed as required for chattel mortgages. 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. Any lien attempted to be given on a stock of goods exposed to daily sale in the regular course of business, and contemplating continued possession and sale of the goods by the owner, is fraudulent and void. Chattel mortgage given to secure creditors is invalid against such creditors as do not accept under it.

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

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may still collect the collaterals. Surety on principal debt is subrogated to rights of creditors 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.

Contracts. No seal is required to be affixed to written contracts. An agreement to answer for the debt, default or miscarriage of another, or for the sale of real estate or the lease thereof for more than a year, or which is not to be performed within a year from the making thereof, must be in writing and signed by the person to be charged therewith.

Conveyances. The husband alone can convey his separate and the community real estate, not the homestead. Husband and wife must join in the conveyance of the wife's separate real estate or of the homestead, whether the separate property of the husband or community, and the wife must, privily from her husband, acknowledge the execution of the instrument before a proper officer in the manner pointed out by statute. No special form required for a deed in Texas; any words of transfer conveys fee simple, unless a less estate is expressly limited. No warranty required, but any provisions of general warranty may be embodied by agreement. Conveyance of a greater estate than grantor has passes what he has. Estate in futuro can be made by deed or conveyance as well as by will. A married woman may by decree of Court authorize to convey, etc., where husband refuses to join. (See Acknowledgments.)

Corporations. The general incorporation law of Texas provides for organization of Texas corporations. The purposes for which they can be organized cover almost the entire range of business enterprise, the exception is corporations cannot be organized to acquire real estate for sale, except for sale and subdivision in towns, and their suburbs. (See Foreign Corporations.)

Costs. Bond or deposit for cost required on filing suit. Execution for costs may issue against the party incurring the cost at the close of each term.

Courts. The federal courts of Texas are district courts with circuit court powers; there are four of these districts in Texas and each holds two sessions of court a year, in from four to five places in each district designated by statute—Austin, Waco, San Antonio, El Paso, Delrio, Dallas, Fort Worth, Abilene, San Angelo, Amarillo; and Galveston, Houston, Laredo, Brownsville, Victoria; and Tyler, Jefferson, Sherman, Paris, Beaumont, Texarkana. State courts with civil jurisdiction are justice courts in each precinct, jurisdiction $200 or less. No appeal in cases of $20 or less; above that, appeal to county court. County court in each county has general probate jurisdiction and exclusive jurisdiction from $200 to $500; above *500 to $1,000, concurrent jurisdiction with the district court. Appeals in probate matters to the district court; in all other civil appeals to the court of civil appeals. District court has concurrent jurisdiction with the county court over amounts above $500 to $1,000, exclusive jurisdiction over amounts above latter sum, and also of all suits involving title to land, and slander and libel, irrespective of amounts. Appeal in civil matters to court of civil appeals. There are eight courts of civil appeals, each in separate districts, to which all civil appeals from the district and county courts are taken. There is one supreme court sitting at Austin to which certain characters of cases can be brought from the courts of civil appeals by writ of error granted by the supreme court. In each county there must be as many as two terms of the district court each year, and in a number of more populous counties there are from four to seven terms each year. At least four sessions of the county court in each county must be held each year. In a number of the sparsely settled counties the civil jurisdiction of the county courts, except as to probate matters, has been transferred to the district court. Justices of the peace and clerks of the courts are required to file and docket all suits tendered, but can not be compelled to take any further action unless the costs are secured.

Creditors' Bills superseded in Texas by statutory proceeding of garnishment. (See Garnishment.)

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, after demand, or sight, the day of its date, etc., is excluded in computing time. Limitation does not commence to run on commercial paper until the expiration of three full days after the day of maturity.

Deeds. (See Conveyances.)

Depositions. All witnesses' depositions may be taken. The deposition of a party to a suit, except where either party is a corporation, 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. Officer taking deposition must subpœna witness not less than five days before taking deposition, giving notice also of time and place of taking to each of the parties or their attorney of record, and written interrogatories must be propounded sereatim and witness not allowed to be advised of contents of interrogatory until so propounded.

Under "Depositions," there is to be added after the sentence ending "witness not allowed to be advised of contents of interrogatory until so propounded" the following:

The testimony of witnesses may be taken orally, provided they be within one hundred miles of the court in which the suit is pending. Also, they may be taken orally at points more distant than one hundred miles when the Court may upon application so order it. In taking the deposition, the officer will make a caption stating the number and style of the case, the residence of the witness, the 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. When the same have been so reduced to writing, they shall be signed by the witness, and the officer shall affix his jurat showing that they were sworn to and subscribed before the officer by the witness. In addition, the officer shall attach a certificate under his seal and official signature, showing that the answers of the witness as made were signed and sworn to by the witness before him and that said answers were reduced to writing by him or under his direction. The deposition with the commission and interrogatories must be sealed in an envelope, and the officer's name must be written officially across the seal. The envelope shall be addressed to the Clerk of the Court from which the commission issued, and should have on it the amount of the fee, the number and style of the suit and the name of the witness, and a certificate by the officer, under the seal of his office, stating that he in person deposited the same in the U. S. Mail (giving the postoffice) for transmission on the ..... day of ...., 19..

Descent and Distribution of Property. Separate, real, personal, or mixed property, when deceased leaves no husband or wife, descends: To his children and their descendants; if none such exist, then to father and mother in equal portions; if only father or mother survive, then such survivor takes one-half, and the other half goes to the brothers and sisters of deceased and their descendants; if none of the latter survive, the parent then living takes the whole; if neither parents, nor sisters or brothers or their descendants survive, then the estate goes in equal moieties to the paternal and maternal kindred, i. e., to grandfather and grandmother of each side and their descendants; if one be dead and have no descendants, then the whole moiety to the survivor, and so on to the nearest lineal ancestors and their descendants. When deceased leaves husband or wife, the estate descends, when there are children, one-third of personal property and life estate in one-third of real estate to husband or wife, balance of personal and real estate, as well as remainder to child or children. If deceased leaves no child or children, husband or wife takes all personal and one-half of real estate, the other half goes to the father and mother, etc., under the general rule above as to descent, but surviving husband or wife takes all, in case neither father or mother, nor sister or brothers or their descendants survive. Community property goes entirely to surviving husband or wife, when there are no children or their descendants, but if there are such, the property goes one-half to surviving spouse and the other half to the children and their descendants.

Dower. The right of dower does not exist in Texas.

Evidence. Parties can testify in their own behalf but not as to transactions with or statements by a deceased party in suits to which heirs as such or executors, administrators or guardians in their official capacity are parties. (See Depositions.)

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, on the eleventh day 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 in execution shall be publicly advertised by the officer for at least twenty days successively next before the day of sale, by posting up written or printed notices thereof at three public places in the county, one of which shall be at the door of the courthouse of the county, and by delivering to the defendant in execution one copy of said notice of sale, whenever he resides in the county where the land is situated, and shall mail a similar notice to the attorney of record, if any, for such defendant in every case; and if such defendant resides out of the county where the land is situated, the officer shall mail to him a similar notice, directed to him at his postoffice, if known to such officer, and if his residence is not known and he has no attorney of record, the posting of the first three notices shall be sufficient; provided, that whenever real property shall be levied on by virtue of an execution, or shall be the subject of any order of sale or venditioni exponas, if the defendant shall, at any time prior to and not later than five days after receiving notice of the levy of any execution or issuance of order of sale or venditioni exponas, request the clerk or justice of the peace issuing such execution, order of sale or venditioni exponas, or the officer making the levy or holding the process, that notice of the sale be published in a newspaper, the same shall be so published, if there be a newspaper published in the county that will publish the same for the compensation allowed herein; when said request is filed the officer shall, under the provisions of this article, publish notice of the sale in a newspaper published in the county for three consecutive weeks. Said notice shall contain a statement of the authority by virtue of which the sale is to be made; the time of levy and the time and place of sale; it shall also contain a brief description of the property to be sold, and shall give the numper of acres, original survey, locality in the county, and the name by which the land is most generally known, but it shall not be necessary for it to contain field notes." Judgment becomes dormant if execution be not issued thereon within twelve months. If execution do issue within twelve months another may be issued at any time within ten years, and by so issuing within each succeeding ten years from date of last issuance, a judgment may be continued alive.

Exemptions. By the constitution of 1876, the homestead of a family not in a town or city consists of 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 the head of a family The homestead is protected from forced sale or 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 in advance, 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 property for every family. 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. Exempt personal property may be made subject to valid liens, by contract.

Foreign Corporations, except railroads, can file their charter in office of secretary of state at Austin, Texas, and on payment of fee get a ten-year permit to do business in Texas. Foreign corporations doing a strictly interstate and commerce business in Texas do not have to file charter or get permit. Should a foreign corporation, without procuring permit, do other than interstate business in Texas, it will be denied the right to file suits in State Courts. (See Corporations.)

Foreign Judgments can be sued on in Texas.

Fraud. Every gift, conveyance, assignment, transfer of, or charge upon any real or personal property, or suit commenced, decree, judgment, or execution suffered or obtained, and every bond or other writing given with intent to delay, hinder, or defraud creditors, purchasers, etc., is void as to them, excepting as against innocent purchasers for value without notice. Gifts, conveyances, etc., not upon valuable consideration, are void as to then existing creditors, unless debtor had then enough additional property subject to execution to pay his debts existing at that time.

Futures, Dealings in, with no intention of actual delivery, made a misdemeanor. No contract can be enforced for or growing out of future contracts where there was no intention of actual delivery of the article.

Garnishment. May issue either before or after judgment to attach moneys due by garnisher to debtor or effects of debtor in hands of garnishee. Except after judgment a bond in double amount of debt must be given.

Guarantee Companies must have at least $100,000 paid-up capital, must deposit at least $100.000 with some state officer in some state

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of the United States, must deposit $50,000 good securities with treasurer of State of Texas, must designate to commissioner of insurance of Texas some one on whom service of legal process can be made, can make statutory bonds in Texas.

Holidays. January 1st, February 22d, March 2d, April 21st, June 3d, July 4th, first Monday in September, October 12th, December 25th, all days appointed by the president of the United States or governor of Texas as days of fasting or thanksgiving, and the days on which an election is held throughout the State are holidays, which shall be treated as Sundays for the purpose of presenting for payment or acceptance, and protesting and giving notice of dishonor of negotiable paper instituting suits and serving process in civil cases, except in attachments. If any of said days falls on Sunday, the next day thereafter is holiday. No civil suit shall be commenced, nor shall any process be issued or served on Sunday or any legal holiday, except in cases of injunction, attachment, garnishment, sequestration, or distress proceeding.

Husband and Wife. All property, real or personal, of either spouse owned or claimed before marriage and that acquired afterwards by gift, devise or descent, shall constitute the separate property of such spouse. All property acquired during coverture by either spouse, except property acquired by gift, devise or descent, is community property. The income from the separate property of either spouse is community. During marriage the husband shall have the sole management, control and disposition of his separate property, and the wife the sole management, control and disposition of her separate property, except, however, that the joinder of her husband in any encumbrance or conveyance of the wife's land shall be necessary and the joint signature of the husband and wife shall be necessary to transfer stocks and bonds belonging to her. The husband shall have control of the community property except the personal earnings of the wife, rents from the wife's real estate, interest on bonds and notes belonging to her, and dividends on stocks owned by her, which shall be subject to the control, management and disposition of the wife as aforesaid. Funds deposited in any bank or banking institution in the name of either the husband or the wife shall be regarded as belonging to and subject to the control of the party in whose name deposited, regardless of who shall have made the deposit. Neither separate property of the wife nor the rents from the wife's real estate nor interest on bonds and notes belonging to her, nor dividends on stocks owned by her nor her personal earnings shall be subject to the payment of debts contracted by the husband.

Injunctions, statute as to, is almost entirely declaratory of equity rules and practice.

Insolvent and Assignment Laws. The statute provides for a general assignment by an insolvent debtor. The assignee must, within thirty days, give notice to all the creditors. Creditors to share in the benefits must accept within four months, and file with the assignee verified statement of their claims within six months. Moneys must be distributed by the assignee whenever he has as much as 10 per cent of all properly proven claims on hand after paying expenses. Assignee must file sworn report with the county clerk, and any opposition to this report must be filed within twelve months after filing. Preferences not allowed. No discharge of debtor unless the estate pays as much as 33 1-3 per cent to all accepting creditors. As a general assignment is an act of bankruptcy, the bankrupt act has practically done away with the State assignment law.

Insurance Companies. Apply to commissioner of insurance for copy of the law, as it can not be condensed.

Interest. Legal, 6 per cent; conventional up to 10 per cent. Open accounts, no rate agreed upon, legal interest from January 1st thereafter. Judgments bear rate stipulated in contract sued upon, and 6 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 and cross-indexed in the name of each plaintiff and defendant. Lien takes effect from date of 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.

Jurisdiction. (See Administration of Estates, Courts, Divorce, Notes and Bills of Exchange.)

Liens. Exempt property, excepting homestead, and all other property is subject to lien by contract, saving a stock of goods daily exposed to sale where change of possession is not contemplated. The homestead is subject, however, to lien for taxes, vendor's lien, and mechanic's lien, if the latter is fixed by prior contract and wife's separate acknowledgment thereof. The statutes provide further for mechanic's liens, for liens in favor of hotel and boarding-house keepers, and for liens on vessels.

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, but new promise which revives debt, and which must be in writing, revives mortgage. Renewals of mortgages or other liens affecting real estate must be recorded to be effective. Limitation must be pleaded. Does not run during period of absence of debtor from State, nor against minors, married women, and persons non compos mentis.

Married Women. By an Act of the Legislature which went into effect July 1, 1913, married women are given certain rights to contract. Previous to this Act, they had no right to contract save for necessaries for themselves or children and for the benefit of their separate estate. This Act of the Legislature has not yet been considered by the courts and the exact extent of married women's right to contract is not yet known. Contracts made by a married woman may not be enforced against the separate property of the husband nor against the community property other than the personal earnings of the wife and the income, rents and revenues from her separate property, save when the contracts are for necessaries furnished her or her children. A married woman shall never be a joint maker of a note or surety on any bond or obligation of another without the joinder of her husband with her in making such contract. (See also Husband and Wife.)

Mines and Mining. There are statutory provisions as to mineral lands of the State, but too lengthy for this compendium.

Mortgages. No mortgage or other voluntary ncumbrance of the homestead, except for labor or material used in its improvement (as to which see exemptions and liens supra), is valid.

Notaries appointed by the governor and approved by senate; hold office for two years and have seal of office.

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 10 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. If Monday be a holiday, negotiable paper may be presented for payment or acceptance on the Saturday preceding such holiday. Paper falling due on Sunday, or a holiday, must be presented for payment or acceptance on Saturday or the day preceding such holiday. When third day of grace falls on Sunday or a legal holiday, the paper is due on the preceding day

Partnerships, Limited. Statutory provisions for record of certificate by which the special partner is limited in his liability to the capital named as amount to be contributed.

Powers of Attorney, if intended to effect title to real property, should be acknowledged and recorded like a deed to real estate. Revocation should be made in the same way.

Private Seals. Abolished February 2, 1858, except as to private corporations.

Probate Law. (See Administration of Estates.)

Promissory Notes. (See Notes and Bills of Exchange.)

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. No legal advantage in protesting negotiable paper where there is no one secondarily liable.

Records. Deeds, mortgages, and other liens must be recorded. (See Acknowledgments, Chattel Mortgages.)

Redemption. None allowed as against forced sales.

Service. Citations must be served ten days before first day of term of court to require appearance and answer to that term.

Suits, Where Brought. The rule is that a resident of the State should be sued in the county in which he may reside, but there are numerous exceptions, among them being suits brought on written contracts, providing where they are to be performed—which may be brought either in the county of the defendant's residence or where the performance is agreed to be made. Thus, a note payable at Austin may be sued on in Travis 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.

Testimony. (See Depositions.)

Transfer of Corporation Stocks. Such stock is transferable only on the books of the corporation in such manner as the by-laws may direct.

Trust Companies may assume banking privileges; can act as trustees, executors and agents.

Warehouse Receipts. In the Fall of 1914, the State was authorized to establish emergency warehouses. This law continues for one year when a permanent warehouse system is to be established. Warehouses may also be established by individuals upon complying with certain statutory requirements as a private enterprise. The law authorizes the issuance of negotiable and non-negotiable receipts, and provides that the character of receipt shall be plainly placed upon the same. Negotiable receipts are transferable like other negotiable instruments and the property is not to be delivered save upon surrender of the receipt. Such receipt shall also show the fact with respect to whether there is any mortgage or other lien upon the property so warehoused. Caution should be exercised in accepting warehouse receipts without inquiry with respect to whether the warehouse company issuing same has in all respects complied with the law.

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. 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. Real estate can not be devised by a nuncupative will.

SYNOPSIS OF

THE LAWS OF UTAH

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by Messrs. BOOTH LEE, BADGER, and RICH, Attorneys at Law, Salt Lake City. (See Card in Attorneys' List.)

Actions. There is but one form of civil action and that is prescribed by statute. When required by defendant non-resident plaintiff must give bond for costs.

Administration of Decedents' Estates is had in the district courts. Creditors have four months in which to present claims in estates less than $10,000, in larger estates, ten months. Non-resident

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creditors may present claims after the expiration of said time and before the estate is closed, providing they can show that they had no notice or knowledge of said time limit. Letters testamentary and of administration are granted by the district court of the proper county. Applicants for letters of administration are entitled thereto, other things being equal, in the following order: 1. The surviving husband or wife, or some competent person whom he or she may request to have appointed. 2. The children. 3. The father or mother. 4. Brothers or sisters. 5. The grandchildren. 6. The next of kin. 7. The creditors. 8. Any other competent person. A surviving partner cannot be appointed administrator of his deceased partner's estate.

Affidavits may be taken before any notary public, judge, or clerk of a court of record having a seal. When an affidavit is taken before a judge or clerk out of the State, 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.

Aliens have same property rights as citizens.

Arbitration, in all cases except where the title to real property is involved, may be had in the manner provided for by the code and the award may be entered as a judgment.

Arrest. A judgment creditor may obtain the arrest of an absconding debtor by making the proper showing to the court and furnishing a bond of not less than $500.

Assignments. Any insolvent debtor may make an assignment for the benefit of his creditors and may be with or without preferences, which assignments are administered by the district courts. Amounts owing for rent or wages are preferred by law. Assignment is void for fraud or if it gives a preference upon any condition or contingency.

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 State, 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 State to the injury of his creditors, or who stands in defiance of an officer or conceals himself so that process cannot 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 securities in a sum not less than $200 in district court and $50 in justice court and not less than the claim.

Banks.—Corporations to conduct commercial and savings banks, or banks having departments for both classes of business, may be formed by any number of persons, not less than five at least one of whom shall be a resident of this state.

The capital stock shall not exceed $1,000,000.00. The subscribed capital stock shall not be less than $20,000.00. In cities having from 5,000 to 25,000 inhabitants, not less than $50,000.00, and in cities having from 25,000 to 50,000 inhabitants, not less than $75 000.00, and cities having more than 50,000 inhabitants, not less than $100,000, nor shall the certificate of incorporation be issued, unless it shall appear by affidavit of at least three of the incorporators, that the proposed corporation has the requisite amount of subscribed capital stock, and that at least 50 per cent of the capital stock has been paid in cash. And it must also appear by affidavit that at least 25 per cent of any increased capital has actually been paid in cash, provided that when deposits exceed $5.000,000, the capital and surplus of any bank shall not be less than $500,000.00. Unpaid subscriptions shall be paid in instalments of not less than 10 per cent per month.

Loans to officers and directors in excess of 15 per cent of the capital stock and surplus are prohibited, and the capital stock of the bank shall not be taken as security for such loans. All loans to officers must be secured in double the amount of the loan and must be approved by a two-thirds vote of the directors or executive committee, on which vote, the officer or director securing the loan shall not participate.

The total liabilities of any bank to any person, company, corporation or firm for money borrowed, shall not exceed 15 per cent of the capital stock and surplus.

Stockholders are liable in double the amount of their stock for all debts.

Savings banks are prohibited from borrowing money (except public moneys) or pledging securities, except to meet immediate demands of depositors, and then only upon a resolution adopted by a majority of the board of directors or executive committee, duly entered in their minutes with the ayes and nays recorded.

The establishment or maintenance of private or partnership banks are prohibited and all such banks now in operation are required to retire or incorporate within five years from March 9, 1911.

Foreign banks are required to comply with all provisions of law relating to private corporations and domestic banks, including the payment of capital stock in this state.

Commercial banks are required to maintain a reserve fund equal to 15 per cent of deposit and demand liabilities, one-eighth in lawful money of the United States on hand and the balance in credits in solvent banks, other than savings banks.

In cities having a population of 50,000 or more, the reserves shall be not less than 20 per cert.

Savings banks must carry in cash or equivalent, 10 per cent of its deposit liabilities, one-fourth of which must be in lawfu money, and the remainder in credits in solvent banks other than savings banks.

Banks having both commercial and savings departments are required to maintain reserves for each department.

A director must own stock of the par value of at least $200.00 in his own right. In cities of the first and second class, the stock owned by directors must be of the par value of $500.00.

The board of directors or a committee thereof of not less than three members shall at least once in three months examine the loans and investments made since the last meeting.

A thorough yearly examination of the affairs of the bank with a special view to ascertaining the value and security of loans, discounts and overdrafts is required, and a report made to the state bank examiner.

One-tenth of net profits shall be carried to a surplus fund until such fund amounts to 20 per cent of the capital stock.

Bank commissioner may make application for receiver if he is satisfied bank has violated the law and pending application may take possession of the books and assets of the bank.

Upon payment of creditors, and the expenses of receivership and the making good of the impairment of the capital stock, the property of the bank shall be returned to the bank or to the stockholders, and the receiver shall be discharged. Not less than four reports each year shall be made to the bank commissioner, which said reports shall be published. Special reports may be called for. Penalty of $50 for each day's delay in transmitting a report is imposed.

The bank commissioner shall approve of articles for the incorporation of banks.

Collateral. There are no statutory provisions peculiar to this subject.

Collection Agencies are required to give bond for faithful performance of contracts.

Competition (Unfair). Unfair competition, i. e., cutting of prices to destroy competitor is prohibited.

Conditional Sales. There is no statute on the subject. The supreme court has held that a conditional sale is good and valid as well against third persons as against parties to the transaction, and that such bailee of personal property or conditional purchaser cannot convey the title or subject it to execution for his own debts until the condition on which the agreement to sell was made has been performed.

Consignments. There is no statutory law regulating.

Contracts. A statute provides that contracts by telegraph are deemed written. The power to contract inheres in the same persons substantially as in common law, except that married women may contract as if sole.

Conveyances. The statute gives the following forms:

WARRANTY DEED

A. B., grantor (here insert name or names and place of residence) hereby conveys and warrants to C. D., grantee (here insert name or names and place of residence), for the sum of.....dollars, the following described tract.....of land in.....County, Utah (here describe the premises).

Witness the hand of said grantor this.....day of..... A. D. 19....

Such deed has the effect of a conveyance in fee simple to the grantee, his heirs, and assigns, of the premises therein named, together with all the appurtenances, rights, and privileges thereto belonging, with covenants from the grantor, his heirs, and personal representatives, that he is lawfully seized of the premises; that he has good right to convey the same; that he guarantees the grantee, his heirs, and assigns in the quiet possession thereof; that the premises are free from all incumbrances; and that the grantor, his heirs, and personal representatives will forever warrant and defend the title thereof in the grantee, his heirs, and assigns, against all lawful claims whatsoever. Any exceptions to such covenants may be briefly inserted in such deed following the description of the land.

QUIT-CLAIM LAND

A. B., grantor (here insert name or names and place of residence) hereby quitclaims to C. D. grantee (here insert name or names and place of residence), for the sum of.....dollars, the following described tract.....of and in.....County, Utah here describe the premises).

Witness the hand of said grantor this..... day of..... A. D. 19..

And such deed when executed as required by law shall have the effect of a conveyance of all right, title, interest, and estate of the grantor in and to the premises therein described, and all rights, privileges, and appurtenances thereto belonging at the date of such conveyance.

MORTGAGE

A. B., mortgagor (here insert name or names and place of residence), hereby mortgages to C. D., mortgagee (here insert name or names and place of residence), for the sum of.....dollars, the following described tract.....of land.....in.....County, Utah (here describe the premises).

This mortgage is given to secure the following indebtedness (here state amounts and form of indebtedness, maturity, rate of interest, by and to whom payable, and where).

The mortgagor agrees to pay all taxes and assessments on said premises, and the sum of.....dollars attorney's fee in case of foreclosure.

Witness the hand of said mortgagor this.....day of..... A. D. 19....

And when executed as required by law, shall have the effect of a conveyance of the land therein described, together with all the rights, privileges, and appurtenances thereunto belonging, to the mortgagee, his heirs, assigns, and legal representatives, for the payment of the indebtedness therein set forth, with covenant from the mortgagor that all taxes and assessments levied and assessed upon the land described, during the continuance of the mortgage, shall be paid previous to the day appointed for the sale of such lands for taxes, and may be foreclosed as provided by law and with the same effect, upon any default being made in any of the conditions thereof as to payment of either principal, interest, taxes, or assessments.

Statutory forms of acknowledgment are as follows:

PERSONAL

Where grantor is known:

State of Utah, county of.....

On the.....day of....., A. D. 19...., personally appeared before me A. B., the signer of the above instrument, who duly acknowledged to me that he executed the same.

PERSONAL

Where grantor is unknown:

State of Utah, county of.....

On this.....day of.....A. D. 19...., personally appeared before me A. B., satisfactorily proved to me to be the signer of the above instrument by the oath of C. D., a competent and credible witness for that purpose, by me duly sworn, and he, the said A. B., acknowledged that he executed the same.

CORPORATE

State of Utah, county of.....

On the.....day of.....A. D. 19...., personally appeared before me A. B., who, being by me duly sworn (or affirmed), did say that he is the president (or other officer or agent, as the case may be) of (naming the corporation), and that said instrument was signed in behalf of said corporation by authority of its by-laws (or by resolution of its board of directors, as the case may be), and said A. B. acknowledged to me that said corporation executed the same.

To operate as notice to third parties, a deed must be recorded at the office of the county recorder in which the property is situated; but is binding between the parties and to all others who have notice without record.

Powers of attorney affecting real property must be acknowledged and recorded as deeds, and revocation, to be effectual, must be recorded.

The use of a private seal is unnecessary.

Witnesses are not required.

Corporations may be formed by any number of persons, not less than five, one of whom must be a resident of this State. They shall enter into an agreement in writing, which agreement must contain certain statutory provisions and such other matters as may be agreed upon by the incorporators. At least three of the incorporators must subscribe to an affidavit before a notary public of the county wherein they intend to establish their principal place of business, to the effect that they intend to carry on the business mentioned in the agreement and that each party has paid or is able to pay the amount of his subscription. At least 10 per cent of the stock must be paid for before incorporation. The stock can be paid for in property, in which case the property must be described in the agreement, and except in case of corporation organized for mining or irrigating purposes shall be supplemented by the affidavits of three persons to the effect that they are acquainted with said property and that it is reasonably worth the amount for which it was accepted by the corporation. The agreement and oath must be filed with the clerk of the county in which the general business is to be carried on and a copy must be filed with the secretary of state. The officers must subscribe to an oath of office which must

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be filed with the county clerk. Corporations so formed have general powers. A corporation is allowed to continue its existence the period provided in the charter for the purpose of winding up its business.

A corporation license tax is levied on capital stock, graduated from a minimum tax of $5.00 for an authorized capital stock of $10,000 or less, to a maximum tax of $250.00 for an authorized capital stock of over $4,000,000.00.

The foregoing tax is due on the 15th day of November of each year. If not paid before the 15th day of December following, the corporation is in default and a penalty of $10 is imposed; if the tax and penalty is not paid on or before the first Monday in April following, the right to do business within the State of Utah is forfeited. On or before the 1st day of July following the first Monday in April the governor may reinstate any defaulting corporation paying all back taxes, penalties and expenses.

Corporations, Foreign, doing business in this State are required to file with the secretary of state and with the county clerk of the county wherein their principal office in the State is situated, certified copies of their articles and certificate of incorporation and by-laws, and shall by resolution of the board of directors accept the provisions of the constitution of this State, and shall also designate some person residing in the county in which its principal place of business in this State is situated, upon whom process may be served, which designation shall be filed with the county clerk of said county and the secretary of state; service of summons upon such agent shall be deemed service upon the corporation. Any corporation failing to comply with these provisions shall not be entitled to the benefits of the laws of this State relating to corporations, and shall not sue, prosecute, or maintain any action, suit, counterclaim, cross-complaint, or proceeding in any of the courts of this State; on any claim, interest or demand arising, or growing out of or founded on any contract, agreement or transaction made or entered into in this State by such corporation or by its assignor, or by any person from, through or under whom it derives its interest or title or any part thereof; and shall not take, acquire or hold title, possession or ownership of property, real, personal or mixed, within this State; and every contract, agreement and transaction whatsoever, made or entered into by or on behalf of any such corporation, within this State, or to be executed or performed within this State, shall be wholly void on behalf of such corporation and its assignees and every person deriving any interest or title therefrom, but shall be valid and enforcible against such corporation, assignee and person. Any agent acting for a foreign corporation which has not complied with these provisions is guilty of a misdemeanor and is personally liable on contracts made by him for it. Foreign corporations are granted powers of eminent domain on same conditions as domestic corporations. (See Corporations for License Tax.)

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

Courts. District courts have original jurisdiction in all matters of law and equity and in all matters of probate, and hold three or more terms a year in each county. Provision is made for city courts in the larger cities, and in Salt Lake City the city court has civil jurisdiction in cases where the amount involved does not exceed $500. Justice of the peace courts have jurisdiction where the amount involved is less than $300.

Depositions may be taken upon oral interrogatories upon written notice to the adverse party, specifying the time and place of taking such depositions, the name and official character of the person before whom such depositions are to be taken, the names of the witnesses to be examined. Said notice must be served at least ten days previous to the day of taking such depositions, with one day added for each 200 miles intervening between the place of trial and the place of taking such depositions. The statute also provides a method of taking depositions on written interrogatories and commission issued out of the court.

Descent and Distribution. (See Succession.)

[Note.—In lieu of the common law designation "Descent and Distribution" the civil law title of "Succession" is used in the Utah statutes.]

Dower is abolished. In lieu thereof the law provides that one-third in value of all the legal and equitable estates in real property possessed by the husband at any time during marriage, and of which the wife had made no relinquishment of her rights, shall be set apart as her property in fee simple if she survive him: provided, that the wife shall not be entitled to any interest in any such estate of which the husband has made a conveyance when the wife, at the time of the conveyance, is not, and never has been, a resident of Utah. Property so distributed is free from debts of the husband, except mechanic's lien for improvements on the same, lien for the purchase thereof and for taxes. The value of the widow's share of the homestead is deducted from her distributive share. (See Succession.)

Executions. (See Exemptions and Judgments.) Execution may be issued immediately on entry of judgment. There is no stay, except by appeal. There is no right of redemption of personal property sold on execution. There can be a redemption of real estate sold on execution within six months.

Exemptions. The following personal property of any judgment debtor shall be exempt from levy and sale on execution: Chairs, tables, desk, to the value of $200; library belonging to the judgment debtor; musical instruments in actual use in the family; also necessary household table and kitchen furniture belonging to the judgment debtor to the value of $300; one sewing machine, all family hanging pictures, oil paintings, and drawings, portraits and their necessary frames; all carpets in use; provisions actually provided for individual or family use sufficient for three months; two cows, with their sucking calves; two hogs, with all sucking pigs; all wearing apparel of every person or family; also all beds and bedding of every person or family. Provided, that if the judgment debtor be the head of a family consisting of five or more members, there shall be a further exemption of two cows and their sucking calves. The farming utensils or implements of husbandry of a farmer not exceeding in value the sum of $300; also two oxen or two horses, or two mules and their harness, one cart or wagon, and food for such oxen, horses, cows or mules for six months; 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; crops, whether growing or harvested, and the proceeds thereof not exceeding in value $200. The tools, tool chest, and implements of a mechanic or artisan necessary to carry on his trade, not exceeding in value the sum of $500; the notarial seal and records of a notary public; the instruments and chests of a surgeon, physician, surveyor and dentist necessary to the exercise of their profession with their scientific and professional libraries, and law professional libraries and office furniture of attorneys, counsellors, and judges, and the libraries of ministers of the gospel, and the typewriting machine of a stenographer, writist, copyist, and reporter. The cabin or dwelling of a miner not exceeding in value the sum of $500; also his sluices, pipes, hose, windlass, derricks, pumps, cars, and tools not exceeding in value $500; two oxen, two horses or two mules and their harness, and a cart or wagon or dray or truck, by the use of which a cartman, drayman, truckman, huckster, peddler, hackman teamster, or other laborer habitually earns his living; and one horse, with vehicle and harness or other equipment used by a physician, surgeon, or minister of the gospel in making his professional visits, with hay and grain sufficient for such horse for six months. One-half of the earnings of the judgment debtor for his personal services, rendered at any time within thirty days next preceding the levy of execution: provided, that when the earnings are $2.00 a day or less, such married man or head of family shall be entitled to an exemption of $30 per month; provided, that in no case shall the judgment debtor be taxed with the costs of any proceeding to obtain by levy of execution or otherwise, any part of the earnings of such judgment debtor, for personal services rendered within thirty days next preceeding the levy of such execution. All public property with the fixtures, furniture, books, papers appertaining thereto. No property is exempt from execution upon a judgment recovered for its purchase price, or on foreclosure of mortgage or mechanic's lien or laborer's lien, or exempt from sale for taxes. Non-residents have no exemptions. All real and personal estate belonging to a married woman in her own right, and all the rents and profits thereof, and all compensation for her personal services, are exempt from execution against her husband. All moneys growing out of life insurance on the life of judgment debtor, if the annual premium does not exceed $500. If the debtor be the head of a family, he is entitled also to a homestead of the value of $1,500 for himself and the further sum of $500 for his wife (if he has one), and $250 additional for each other member of his family.

False Statements for Credit. False statements to procure credit are made misdemeanor.

Fraud. An action for relief on the ground of fraud can be brought within three years after discovery of the fraud. (See Statute of Frauds.)

Garnishment issuable with attachment or afterward. The writ of garnishment with interrogatories attached requires the garnishee to answer within ten days after service if in the county, twenty days if outside. Names of any number of garnishees may be inserted in one writ. Garnishee must answer in writing under oath. He is released by delivering the property or money to an officer. A default may be entered and judgment taken against him upon proof of his liability. If he answer denying liability, the plaintiff may join issue by reply Such issue is tried and judgment rendered as upon other issues. Discharge of the garnishee does not bar action against him by the defendant for the same demand. Garnishment may be had after judgment, the procedure being substantially the same as the foregoing. New trials and appeals may be taken as in any other civil action.

Husband and Wife. If sued together, she may defend for her own right, and if either neglect the other may defend for both. If he desert her, she may prosecute or defend in her name. She may convey and make contracts in regard to her separate property the same as if unmarried. Either may act as attorney in fact for the other and conveyances from one to the other are valid. She may maintain an action for wages in her own name. They may be sued jointly for the expenses of the family and for the education of the children.

Inheritance Tax. There is an inheritance tax of 3 per cent on all property in excess of $10,000 and not exceeding $25,000, and 5 per cent in excess of $25,000.

Interest. Legal rate, 8 per cent. Maximum rate, 12 per cent. On sums of $100 or less $1.00 may be charged the first month, but no higher rate than 12 per cent thereafter. The debtor, or his representative, can recover all sums paid as principal or interest on usurious loans, if suit is brought within one year. The county superintendent of schools can recover within three years, after the expiration of the first year of the period of limitation, for the use of the schools, all amounts paid as principal or interest on usurious loans.

Judgment rendered in district court becomes a lien on all the real property of debtor within the county from time of docketing, and so continues for eight years therefrom. Lien may be extended to counties of other districts by filing transcript of judgment with county recorder of such counties. Judgments may be revived by suit brought in eight years.

Liens. In all cases where the property of any company, corporation, or firm, seized by process of execution or attachment, and when business is suspended by action of creditors and put into the hands of a receiver or trustee, then the debts owing to laborers for work or labor performed within five months next preceding such seizure and transfer and not exceeding the sum of $400 shall be treated as preferred, and such laborers and employes shall have a lien upon the property for the amount of such debt. This preference does not apply to any officer or general manager of a corporation or any member of any partnership or association. Lessor shall have a lien for rent due for six months only next preceding upon the property of the lessees not exempt from execution as long as the lessee shall occupy the leased premises and for thirty days thereafter, which lien has priority over all others, excepting taxes, mortgages for purchase money, and liens of employes for services for six months next prior to the sale. It is enforced by attachment. Mechanics, material men, etc., performing labor upon or furnishing materials, etc., to be used in construction, alteration, etc., of any building, bridge, etc., have a lien thereof attaching to the interest of the owner or lessee in the land, etc., which lien takes precedence of every other incumbrance or lien attaching after the commencement of the work. Notice of intention to hold and claim lien must be filed in the office of the county recorder within sixty days after the completion of the contract in the case of original contractor; in every other case, within forty days after furnishing the last material or performing the last labor. Liens may be enforced within twelve months after completion of the original contract or suspension of work thereunder for thirty days. Persons entering into contracts for the construction or repair of public buildings, public work or improvement, are required to give a bond for the protection of persons furnishing labor and material.

Limitation of Actions. Within four 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 6 years, contracts or obligations founded in writing. Within eight years, judgment or decree of any court of the United States, state, or territory. Money deposited in bank no limitation for its recovery.

Mines and Mining. The general principles of the mining laws which prevails in the Pacific Coast region, as embodied in the revised statutes of the United States, and interpreted by the supreme court of the United States and other federal courts, obtains in this State; There is very little local statutory enactment to supplement this general system.

Mortgages (see Chattel Mortgages. For form Real Property mortgage see Conveyances) 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 it is made in good faith to secure the amount named therein, and without any design to hinder or delay creditors. A short statutory form is provided.

Notes and Bills of Exchange are governed by statute. Chapter 83 of the laws of 1899, effective July 1, 1899, is the act recommended by the American bar association to secure a uniform law on this sub-

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ject. All other acts are repealed. The law merchant governs in cases not provided for. This statute of 1899 is substantially the same as the act of New York relating to negotiable instruments. (See Holidays.) Issuing check without funds or credit is a misdemeanor.

Partnership (assumed name). Persons conducting business under assumed name are required to file affidavit with the county clerk giving true names of persons interested.

Power of Attorney. Every power of attorney, or other instrument in writing containing the power to convey any real estate as agent or attorney for the owner thereof, to execute as agent or attorney for another any conveyance whereby any real estate is conveyed or may be effected, must be acknowledged, and certified, and recorded as other conveyances whereby real estate is conveyed or effected are required to be acknowledged, approved, certified, and recorded. Power of attorney can only be revoked by written revocation recorded in the same office as the power of attorney is recorded.

Replevin. Personal property may be replevined by the owner or other persons entitled to the possession of it. The necessary affidavit and complaint must be made and filed and also bond in double the value of the property claimed. The defendant can retain possession by giving like security.

Statute of Frauds. The following agreements are void unless the agreement or some note or memorandum thereof be in writing and subscribed by the party to be charged therewith:

1. Every agreement that by its terms is not to be performed within one year from the making thereof.

2. Every promise to answer for the debt, default, or miscarriage of another.

3. Every agreement, promise, or undertaking, made upon consideration of marriage, except mutual promises to marry.

4. Every special promise made by an executor or administrator to answer damages or to pay the debts of the testator or intestate out of his own estate.

5. Every agreement authorizing or employing an agent or broker to purchase or sell real estate for compensation or a commission.

Succession. An intestate's estate goes, if there survive: 1. Husband or wife and one child, one-half to each; if more than one child, one-third to the husband or wife, the rest equally to the children. 2. If issue alone, all to the issue. 3. If no issue, all to the husband or wife up to $5,000, the excess one-half to husband or wife, the other half to the parents, and if both are dead, to brothers and sisters equally. 4. If neither issue, spouse, nor parents, to brothers and sisters. 5. If no issue, parents, brothers or sisters, all to the husband or wife. 6. If neither issue, spouse, parent, brother or sister, to the next of kin in equal degree, and if no kin then to the State for the school fund. Issue of children take according to right of representation except in certain cases. Illegitimate children inherit from the mother, and from the father when he acknowledges paternity. Issue of marriages null in law are legitimate. Children of bigamous or polygamous marriages born on or before January 4, 1896, are legitimate. Curtesy and dower are abolished, but the husband of wife surviving takes one-third of the estate of the other in fee.

Suits. (See Actions.)

Taxes are levied as of the second Monday of January; due on the first Monday of September and become delinquent on the 15th day of November. If taxes on real property are not paid, such property may be sold on or after the third Monday of December and may be redeemed at any time within four years.

Warehouse Receipts. The uniform warehouse receipts Act recommended by the national commission on uniform legislation, was adopted by the legislative session of 1911.

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. 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.

SYNOPSIS OF

THE LAWS OF VERMONT

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by THERIAULT & HUNT, Attorneys at Law, Montpelier. (See Card in Attorneys' List.)

Acknowledgments. All deeds must be signed and sealed in the presence of two witnesses. The seal shall consist of a wafer, wax, paper or other adhesive substance affixed thereto, or the word "seal" or the letters "L. S." opposite the signature. 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.

Actions. Are such as are recognized by the common law. Suits before a justice must be served at least six days and not more than sixty days before the return day, except when served in another county, then at least twelve days prior to return day; if defendant is properly notified, judgment may be rendered on the return day, if no defense is interposed. If there is no personal service there must be one continuance for notice. Suits before a justice must ordinarily be brought in the town where one of the parties resides; if neither lives in the State, then in any town. Suits before the supreme or county courts must be brought in the county in which one of the parties resides, if either lives in the State; if neither resides in the State, then in any county, but actions of ejectment and trespass on the freehold must be brought in the county where the land lies. Replevin is to be brought in the county where the goods are detained. Every writ and process returnable before the supreme or county courts, except as otherwise provided, shall be served within twenty-one days from the date of issuing the same, including the day of service, and excluding the day of issuing. The party suing out any process shall cause the same to be entered and docketed in the county clerk's office on or before the expiration of said twenty-one days, or the process shall be of no avail. The defendant shall cause his appearance therein to be entered with the clerk within forty-two days from the date of process. Process served by an officer shall be returned by him to the court or judge to which, or the place where, it is made returnable, within the time allowed by law for serving the same. Suits are commenced by writs of summons or attachment, as the plaintiff prefers. There is no distinction between residents and non-residents, either plaintiff or defendant, in respect to the right of, or liability to, an attachment of property on mesne process. The declaration is contained in the writ. Security for costs to the defendants must be given by way of recognizance by some other person than the plaintiff and must be minuted upon every writ.

Administration of estates is conducted in the probate courts in the several probate districts.

Affidavits may be taken and oaths administered out of the State by commissioners appointed by the governor.

Appeals. (See Courts.)

Arrest. In actions ex delicto the defendant may be arrested for want of attachable property. In actions ex contractu no woman can be arrested. Nor can a resident citizen of any of the United States be arrested in an action ex contractu except upon the affidavit of the plaintiff, his agent or attorney, "that he has good reason to believe, and does believe, that the defendant is about to abscond or remove from the State, and has secreted property to an amount exceeding twenty dollars or sufficient to satisfy the demand upon which he is to be arrested," or upon the affidavit of the plaintiff "that the defendant is the receiver of money of the plaintiff in a fiduciary capacity which the defendant has not paid on demand, and that his action is instituted to recover the same."

Assignments and Insolvency. There is an insolvent law. 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 does not disturb the unproved claim of a non-resident creditor.

Attachment. The defendant's property, not exempt, may be attached on mesne process in serving the writ, and trustee process will reach goods, effects, or credits of defendant in the hands of a third party, but workmen's wages are exempt up to the amount of $10.

Banks. Savings Banks, Savings Institutions, and Trust Companies are organized under special charters granted by the general assembly, and under the general incorporation act, but are regulated largely by general law. Savings banks have no capital stock, while the trust companies, though receiving savings deposits and usually denominated savings banks and trust companies, have a capital fixed by their charters, and the stockholders are individually liable, equally and ratably, for the companies' liabilities to the amount of the par value of their stock in addition to the amount invested in such stock. The treasurer of a bank, before entering upon the duties of his office, shall execute to such corporation a bond approved by a majority of the trustees and the bank commissioner, conditioned for the faithful discharge of his duties. Such bond shall not be less than $10,000; and when the deposits of such corporation, including its capital, if any, and surplus, exceed the sum of $100,000, the penal sum of such bond shall be increased $2,000 for each additional sum of $100,000 or fractional part thereof, but shall not exceed $100,000.

The investments of banks are regulated by laws which are explicit and comprehensive.

A bank may deposit on call in banking associations or trust companies, approved by the bank commissioner of this State and under the supervision of the state or federal authority, in this State or in the cities of New York, Boston, Chicago, Albany, Philadelphia, or Concord, New Hampshire, or in any other bank designated as a depository under the laws of the United States or in National banks in the cities of St. Paul, Minneapolis, and Kansas City, with or without interest as may be agreed upon, sums not exceeding in the aggregate 20 per cent of the assets of such depositing banks.

A national bank may act in all trust capacities in the same manner and subject to the same control by the court having jurisdiction, as a natural person legally qualified.

Every bank shall annually, on or before the 15th day of July, make a report to the bank commissioner, showing accurately the condition thereof as it was at the close of business on the 30th day of June preceding; and such report shall embrace the following particulars: Name of corporation; place where located; amount of deposits; amount of individual deposits in excess of $2,000; total number of depositors; number of depositors resident in this State and the total amount of their deposits; number of depositors not resident in this State and the total amount of their deposits; amount of capital, if any; amount of each item of other liability; public funds, including United States, state, county, town and other municipal bonds, stating each particular kind, the par value, estimated market value, and amount invested in each; bank stock, stating name and location of bank, number of shares, par value, estimated market value, and amount invested in each; railroad bonds, stating name of railroad, par value, estimated market value, and amount invested in each; other stocks, stating the amount of each; estimated value, date acquired, description and location of real estate, and amount invested in each property; loans on mortgages of real estate, stating amount in each State, with average rate of interest thereon by States where loans are made bearing more than 6 per cent interest and with special description of each loan in foreclosure or on which there is interest more than one year overdue, giving date of each such loan, date due, amount of principal unpaid, rate of interest, amount of interest due and accrued, value of land mortgaged and of buildings, amount of insurance held by bank; loans to counties, cities, towns, villages, or school districts; loans on personal security; loans on collateral security; cash on deposit in banks or trust companies, with the name thereof and the amount deposited in each; cash on hand: the rate and amount of each semi-annual interest payment on deposits and dividends on stock for the past year; the amount of the treasurer's bond; the amount of taxes paid during the past year to the United States and to this State; the salaries paid officers, trustees, and

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employees; the other expenses of the past year; with such other information as the bank commissioner may require to obtain an accurate exhibit of the condition, affairs, and transactions of the bank.

The treasurer of each bank shall, on or before the 15th day of February, 1912, and every sixth year thereafter, return to the bank commissioner, under oath, a list of depositors who have not made a deposit therein or withdrawn any part of their deposits or of the interest thereon, for a period of ten years next preceding; and the treasurer of such an institution shall further give notice by publishing a list of such depositors in one or more newspapers published in or near the town where such institution is located, three weeks successively.

The preceding section shall not apply to deposits which, with the accumulation, shall be less than $25, or to a deposit made by or in the name of any person known by the officers of the bank to be living.

The bank commissioner shall semi-annually, without previous notice, visit and examine the condition and affairs of every bank, and oftener if he deems it necessary or believes the interest and safety of the depositors or creditors require. He shall be given access to all the files, books, accounts, securities, and assets of the bank, and shall be afforded every reasonable facility for making an examination of its affairs. He may examine, upon oath, the officers, agents, and servants of such bank, or any other person, in relation to the affairs and condition of such institution, and may administer oaths for that purpose. In addition to the examinations required to be made by law, said commissioner shall make such examinations when ordered so to do by a court of competent jurisdiction. Said commissioner may cause an examination of a bank to be made by an expert under his direction but at the expense of such bank.

When the treasurer of a bank is an officer of a national bank or banking association, or the business of a bank is carried on in the same office or building with a national banking association, said commissioner shall, at least once in each year, visit and inspect the condition of such bank, at the same time that the United States bank examiner visits and examines such national banking association.

Every bank shall at all times carry as a reserve 15 per cent of its commercial deposits and 3 per cent of its savings deposits.

Not less than three-fifths of such reserve shall be in cash on hand and in balances payable on demand in banks and national banking associations in which banks of this State are authorized by law to make deposits; and at least one-third of said three-fifths shall be in cash on hand, but balances payable on demand in banks or national banking associations in the same county will be accepted as and in lieu of cash to the amount of one-half of such cash requirement.

Two-fifths of such reserve may be in United States or state bonds or in the bonds of any city of the United States of at least 200,000 inhabitants, according to the last preceding United States census.

No new loans may be made when a bank's reserve is not in accord with the requirements of this section.

The trustees shall have the general management of the affairs of the bank, but they may act through committees of investment, examination, and audit, subject to their general supervision and control.

A regular meeting of the board of trustees of a bank shall be held at least once each month to receive the report of its treasurer and for the transaction of other business. A majority of the trustees shall constitute a quorum, but a less number may adjourn from time to time or until the next regular meeting.

A trustee or other officer of a bank who intentionally violates a provision of this act shall be imprisoned not more than ten years or fined not more than $10,000, or both; and the state's attorney for the county in which such corporation is located shall prosecute such violation on complaint thereof by the bank commissioner.

A trustee or officer of a savings bank shall not, directly or indirectly, either for himself or as the partner of others, borrow or use its funds or deposits, or sign any note, as surety, upon which any of such deposits are loaned.

A savings bank shall, immediately before making each interest payment to savings depositors, reserve from the net profits accumulated since the preceding interest payment, not less than one-eighth of one per cent of the average amount of deposits during such period, as a surplus fund until such fund amounts to 10 per cent of the amount of deposits and other liabilities except surplus. The accumulation toward such fund shall be set aside and held intact and, when the fund amounts to said 10 per cent, it shall thereafter be maintained and held to meet losses in its business from depreciation and securities or otherwise; and, if at any time it falls below said 10 per cent, reservations from net profits shall in like manner be renewed until such fund again reaches the 10 per cent requirement.

A savings bank may pay interest on deposits not to exceed one and three-fourths per cent semi-annually until one-half of the 10 per cent fund described in the preceding section shall be accumulated, after which, so long as said accumulation does not fall below one-half of said 10 per cent fund, the rate may be not to exceed 2 per cent semi-annually until said 10 per cent fund is accumulated. The trustees, so long only as said surplus fund equals or exceeds said 10 per cent, may declare and pay such interest on deposits as in their judgment the earnings and resources of the corporation, above such surplus fund, warrant.

In determining the per cent of surplus fund held by a bank, its interest or dividend paying stocks and bonds, and its real estate shall be estimated at their market value, and its notes and mortgages shall be estimated at their face.

No loan shall be made to an officer, director, or employee of any trust company without the written consent of a majority of the directors; and such loan shall not at any one time, directly or indirectly, exceed 5 per cent of the capital stock actually paid in, but the discount of bona fide bills of exchange drawn against existing values, and the discount of commercial or business paper actually owned by such director, officer, or employee negotiating the same to an amount not exceeding $10,000 or a loan upon the pledge of any of the securities which are legal investments and subject to the restrictions thereof to an amount not exceeding the same sum, shall not be prohibited by this section, but no loan shall be made by such corporation upon its own stock as collateral, and no officers, director or employee of a trust company shall become surety on any note held by such trust company.

Bills and Notes. On February 13, 1913, the Uniform Negotiable Instruments law went into effect.

Chattel Mortgages. All personal property is subject to mortgage. A mortgage on personal property shall not be valid either between the parties or otherwise unless in writing and recorded within 30 days from its execution in the office of the town clerk of the town in which the mortgagor resides, or if he resides out of the State, in the town in which the property is situated. When the condition of a chattel mortgage has been fulfilled, the mortgagee shall within thirty days thereafter cause said mortgage to be discharged of record and if he refuses or noglects to do so shall be fined not more than fifty nor less than five dollars. Mortgagor and mortgagee are required to subscribe to an affidavit that the debt secured is a just one and if such a mortgage is given to indemnify the mortgagee against liability assumed, or to secure the fulfillment of an agreement other than the payment of a debt due from the mortgagor to the mortgagee, or if such mortgage is given to a trustee to secure bonds issued or to be issued thereunder, such liability, agreement or obligation shall be stated specifically in the condition of the mortgage, and the affidavit shall be so varied as to verify the validity and justice of such liability, agreement or obligation.

Contracts. (See Actions.) Contracts based upon an illegal or immoral consideration are void.

Conveyances of real estate are to be by deed and recorded in the clerk's office in the town in which the land is situated. (See Acknowledgments.)

Corporations may be formed by three or more persons, by application to the secretary of state, for any purpose not repugnant to the laws of this state except (1) any business subject to regulation by the Public Service Commission; (2) the business of a bank, or trust company or savings bank, or any business contemplating the receipt or holding of money on deposit, or letting, loaning or managing money deposited; and (3) the business of insurance. Not less than twenty-five persons, a majority being inhabitants of the State, may form a railroad corporation under the general law. Any corporation, by a two-thirds vote of all its stockholders, or, if it has no capital stock, by a two-thirds vote of all members present, or, if such corporation has not been organized, by a two-thirds vote of the surviving signers of the articles of association, at a meeting duly called for the purpose, may alter, add to or change the business for the transaction of which it was incorporated. (See Sec. 21 of Gen. Ins. Act.)

Charter fees—If incorporated by act of legislature and no capital stock is provided for, or if capital stock does not exceed $10,000, $25; if capital stock exceeds $10,000 but does not exceed $50,000, $50; if exceeds $50,000 but does not exceed $200,000, $100; if exceeds $200,000 but does not exceed $500,000, $200; if exceeds $500,000, but does not exceed $1,000,000, $300; if exceeds $1,000,000, $500; if incorporated by voluntary association and no capital stock is provided for, $25; if capital stock does not exceed $5,000, $10; if exceeds $5,000 and is not over $10,000, $25; if exceeds $10,000 then the fees specified above. Charter fee must be paid with application for charter, and if charter is refused money is refunded.

A corporation may own shares of stock in any domestic corporation provided that the principal business of such domestic corporation is ancillary and auxiliary to its business or that it holds such stock for purposes ancillary and auxiliary to its business. A corporation may also own shares of stock in any corporation organized under the laws of any other jurisdiction, if the principal business of such foreign corporation is to handle and develop in that jurisdiction the business of the domestic corporation. Any charitable, religious or educational corporation may accept and hold shares of stock in any corporation given to it by will or otherwise.

No corporation whose business is primarily to hold shares of stock in other corporations, commonly called "a holding company," shall be permitted to acquire or hold such stock in other corporations. A violation of this provision shall be a cause for the dissolution of the corporation.

Courts. The supreme court has appellate jurisdiction, and sits as a court of error in suits in chancery; it has exclusive jurisdiction of certain statutory petitions not triable by jury; it may issue and determine writs of error, certiorari, mandamus, prohibition, and quo warranto; and may try and determine questions of law removed from the county court upon bills of exceptions. Court of chancery has general chancery jurisdiction. The county court has original and exclusive jurisdiction of all original civil actions not cognizable by a justice, and of certain statutory petitions; it has appellate jurisdiction in most cases cognizable by a justice where the matter in controversy exceeds $20 and in some cases where it is less than that sum; and it also has appellate jurisdiction in cases in the probate court and in the court of insolvency. There are also inferior courts; municipal and city courts, juvenile courts, and justice courts.

Days of Grace. None.

Depositions may be taken in the State by justices of the peace, notaries public, masters in chancery, judges and registers of probate, and by commissioners of other states residing in this State. They may be taken out of the State by commissioners appointed by a supreme court judge, or by the governor, and by officers who are qualified to take depositions in other states

Dower. Widow is entitled to one-third in value of real estate o deceased husband, unless barred in the manner specified in the statute by last will, by jointure, settlement, or when husband leaves no children or representatives of children; and when a widow is entitled to a homestead, her dower is diminished by an amount equal to it.

Executions. May be levied upon property not exempt from attachment. Personal property levied upon is sold by the officer at public auction. Real property is sold at public auction, but the debtor may redeem within six months. In cases in which the body is liable to arrest, the officer may for want of property take the debtor and commit him to jail.

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, three swarms of bees and their produce in honey; 200 pounds of sugar, one sled or one set of trader's sleds, one tool-chest used by a mechanic, 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.

Garnishment. (See Attachment.)

Holidays. (See Notes and Bills.)

Husband and Wife are competent witnesses for or against each other in all cases, civil and criminal, except that neither is allowed to testify against the other as to any statement, conversation, letter or other communication made to the other as to another person, and neither is allowed in any case to testify as to any matter which, in the opinion of the court, would lead to a violation of marital confidence.

Interest. The legal rate is 6 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.

Judgments do not of themselves create a lien on property but 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 the promise must be in writing signed by the party to be charged. 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.

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Married Women. May dispose of property by will. May make contracts with any person other than her husband, and bind herself and her separate property, as if she was unmarried, and may sue and be sued as to such contracts made by her before or during coverture. But her husband must join in conveying her real estate, unless upon petition and cause shown permission is granted by court of chancery to convey by separate deed; and she can not become surety for his debts except by way of mortgage. All personal property and rights of action acquired by her before coverture, or during coverture, except by gift from her husband, are held to her separate use, and neither her separate property, nor the rents, issues, income, or products of it, are subject to the disposal of her husband or liable for his debts; but this provision does not authorize any claim by either husband or wife against the other for personal services. The husband is not liable for her torts unless committed by his authority or direction, nor liable for her debts contracted before the marriage, unless the marriage was before January 1, 1885. (See Husband and Wife—Divorces.)

Mortgages of real estate are foreclosed by bill or petition and writ of possession given after decree and failure to redeem. The usual time for redemption granted in the decree is one year, but it may be shortened upon cause shown. (See Chattel Mortgages.)

Notes and Bills of Exchange. On February 13, 1913, the uniform Negotiable Instruments Law went into effect.

Protest. (See Notes and Bills.)

Replevin. Replevin may be maintained for beasts distrained: for goods attached, and for the unlawful taking or detaining of goods.

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 12 per cent interest.

Wills. Every person of age and sound mind may dispose of his or her real and personal estate by will. The testator must sign in the presence of three witnesses, who must also sign at the request and in the presence of the testator and in the presence of each other.

SYNOPSIS OF

THE LAWS OF VIRGINIA

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by AGELASTO & MILLER, Attorneys at Law, Norfolk. (See Card in Attorneys' List.)

Acknowledgments. The certificate must be to the following effect:
State (territory, or district) of .....
County (or corporation) of ....., To-wit:
I .....(Title of Officer), in and for the county (or corporation) of ..... in the state (territory, or district) of ....., do hereby certify that .....whose name is signed to the writing above (or hereto annexed), bearing date on the ..... day of ....., has acknowledged the same before me in my county (or corporation) aforesaid.
Given under my hand this .....day of .....
.....
(Title of Officer)
(Notary must give the date at which his commission expires.)

The clerk of the court in which any deed, contract, or other writing is to be, or may be recorded, shall admit the same to record in his office, as to any person, whose name is signed thereto, when it shall have been acknowledged by him, or proved by two witnesses as to him, before such clerk, or upon a certificate of his acknowledgment before the said clerk, or before the clerk of any court of record in this State or before the clerk of any court out of this State, but within the United States, or before a justice, a commissioner in chancery of a court of record or a notary, within the United States, or in the Philippine Islands, Porto Rico or in any territory, district or dependency of the United States, or a commissioner appointed by the governor of this State within the United States; or upon the certificate of the clerk of any court of record in this State or the clerk of any court out of this State and within the United States, that the said writing was proved as to him by two witnesses before such clerk or before the court of which he is the clerk, or upon the certificate under the official seal of any ambassador, minister plenipotentiary, minister resident, chargé d'affaires, consul-general, consul, vice-consul, or commercial agent appointed by the government of the United States to any foreign country, or of the proper officer of any court of such country, or of the mayor or other chief magistrate of any city, town or corporation therein that the said writing was acknowledged by such person or proved as to him by two witnesses before any person having such appointment, or before such court, mayor, or chief magistrate. A duly qualified deputy clerk may make any certificate that his principal may make hereunder.

When a person signs such writing in behalf of another person, or corporation, or in a representative capacity, a certificate of the acknowledgment of the person, so signing, shall be sufficient.

Administration of Estates. Executors and administrators, with the will annexed, must qualify in the court in which the will of the testator is probated. Administrators must qualify in the court in which the decedent's will would have been probated had he made a will. The assets of the decedent, after the payment of funeral expenses and the charges of administration, are applied as follows: 1. For articles furnished and services rendered during last illness, not exceeding $50, for claims: (a) By physicians. (b) By druggists. (c) By nurses. (d) By hospitals. 2. To pay debts due the United States and State of Virginia. 3. To pay taxes and levies assessed upon decedent previous to death. 4. To pay debts due as personal representative, trustees for persons under disabilities, guardian or committee, where the qualification was in this State, in which debts shall be included a debt for money received by a husband acting as such fiduciary in right of his wife. 5. All other demands, ratably, except those in the next class. 6. Voluntary obligations. The order of payment applies alike to resident and non-resident creditors. The surplus, after the payment of funeral expenses, charges of administration and debts, passes, if he die intestate, to his relations. (See Descent and Distribution.) The payment of legacies or the distribution of the personal estate of an intestate cannot be compelled until after one year from the date of the qualification of the first executor or administrator of the decedent, and only then when the legatee or distributee gives a refunding bond, with sufficient security, or when the court enters an order directing payment or distribution without refunding bonds.

Affidavits. Any oath or affidavit required by law which is not of such a nature that it must be made in court, may be administered by or made before a justice and certified by him, unless otherwise provided; and in any case in which an oath might be administered by or an affidavit made before a justice, the same may be administered by or made before a notary, a commissioner in chancery, a commissioner appointed by the governor, or a court, or a clerk of a court. An affidavit may also be made before any officer of another state or country authorized by its laws to administer an oath, and shall be deemed duly authenticated if it be subscribed by such officer and there be annexed to it a certificate of the clerk or other officer of a court of record of such state or country, under an official seal, verifying the genuineness of the signature of the first mentioned officer, and his authority to administer such oath. When such affidavit is made before a notary public of such other state or country the same shall be deemed and taken to be duly authenticated, if it be subscribed by such officer with his official seal attached, without being certified by any clerk or other officer of a court of record.

Aliens. Any alien not an enemy, may acquire, by purchase or descent, and hold real estate in this State, and the same shall be transmitted in the same manner as real estate held by citizens.

Arbitration. Persons desiring to end any controversy, whether there be a suit pending therefor or not, may submit the same to arbitration, and agree that such submission may be entered of record in any court.

Arrests. In aid of remedy in civil action arrest does not lie, but capias can be taken out against debtors about to quit the State. Before plaintiff can obtain this writ, he has to give bond with security, to pay costs and damages occasioned by arrest of the defendant.

Attachments may be upon real or personal property, and allowed as follows: 1. Against foreign corporations and non-residents having property in this State. 2. Against an absconding debtor in a suit removing, or intending to remove, his property out of the State. 3. Against a debtor who has removed, is removing, or intends to remove his property, whether the claim is due or not. 4. Against a debtor converting, about to convert, or who has converted his property, or some part thereof, into money, securities, or evidences of debt, with intent to hinder, delay, or defraud creditors. 5. Has disposed of, or is about to dispose of his property, or some part thereof, with intent to hinder, delay, or defraud creditors. 6. Against a tenant removing property from leased premises before rent is due. 7. Against vessels for materials and supplies furnished or work done thereon. 8. Against crops of tenants cultivating land. 9. Against crops of persons cultivating lands for advances made upon crops. 10. Against property claimed in action of detinue, when defendant is alleged to be insolvent.

Banks. The state corporation commission has the power to charter banks under the general corporation law with minimum capital stock, not less than $10,000, and to require reports and examinations and to exercise general supervision thereof.

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:

1. Such as may be necessary for its immediate accommodation in the transaction of its business.

2. 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 ten 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 10 per cent of its capital, nor shall any dividend be declared by which such surplus fund is reduced below the said 10 per cent.

Every such bank must make statements to the state corporation commission, 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 state corporation commission 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 two-fifths of capital stock of the bank, the state corporation commission may make a special examination. 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.

Any banker, broker, or officer of any trust or savings institution, or of any state bank, or employee of any private banker, who shall take and receive money from a depositor with the actual knowledge that the said banker, broker, or bank, or institution is at the time insolvent, shall be guilty of embezzlement, and shall be punished by a fine double

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the amount so received and imprisoned in jail from fifteen days to one year, or from one to three years in the penitentiary in the discretion of the jury.

There are no laws restricting savings banks as to the class of bonds and securities in which their funds may be invested.

A bank examiner and assistant are provided for with full powers of frequent and rigid examination of state banks at the expense of the banks.

Chattel Mortgages and Deeds of Trusts. There may be mortgages or deeds of trusts upon personal or real property to secure the payment of money, and upon default of payment the property may be sold by the trustee without the intervention of court proceedings. The mortgage or deed of trust must be acknowledged, and must be recorded in the county or corporation wherein the property is situated. It is larceny to fraudulently dispose of personal property on which a deed of trust exists, without the consent of the trustee or beneficiary.

Checks. The death of the drawer of a check, presented within two weeks from date of death, does not operate as a revocation. Bank or bankers retain for a period of two weeks after notice of the death of a depositor money standing to his credit, and after paying thereout any checks which may be presented within said two weeks shall, upon demand, pay the residue to the persons entitled thereto in the manner prescribed by law. This applies only to checks made payable at a bank or bankers. (Acts 1906.) "It is made larceny to obtain, with fraudulent intent, money, or other property by means of a check, draft, or order and the failure to have on deposit, or to the credit of the maker, or drawer thereof, with the drawee sufficient funds to pay the same, when presented, is prima facie evidence of fraudulent intent."

Collaterals. No special legislation.

Conditional Sales. Every sale or contract for the sale of goods or chattels, wherein the title is reserved until the same be paid for in whole or in part, or the transfer of the title is made to depend on any condition, and possession to be delivered to the vendee, is void as to creditors of and purchasers for value without notice from such vendee unless such sale or contract be evidenced by writing executed by the vendor and vendee, in which the said reservation or condition is expressed, and until and except from the time the said writing is duly admitted to record in the county or corporation in which said goods or chattels may be. As to rolling stock, cars, etc., of railroad companies, contracts concerning them are to be recorded in the circuit or corporation court of the county, or corporation where the principal office of the company is located; if in Richmond city, in the Richmond chancery court, and a copy filed with the state corporation commission, and each locomotive, car, or other piece of rolling stock is to be plainly and permanently marked with the name of the vendor on both sides thereof, followed by the word "owner."

Contracts. Every contract not in writing, made in respect to real estate or goods and chattels, in consideration of marriage, or made for the conveyance or sale of real estate, or a term therein of more than five years, shall be void, both at law and in equity, as to purchasers for valuable consideration without notice and creditors.

Conveyances are made by deed which may be written, type-written, or printed, and must be sealed. The seal of a natural person may be a scroll, affixed by way of seal; but the impression of a corporate or an official seal on paper or parchment alone shall be as valid as if made on wax or other adhesive substance. The seal must be recognized as a seal in the body of the instrument, e. g.: "Witness my hand and seal." An attorney in fact may execute a deed, but the power of attorney must be under seal. No prescribed form is required for deed of a corporation, but it must be executed by duly authorized officers or agents. Any interest in or claim to real estate may be disposed of by deed, and any estate may be made to commence in futuro by deed. A deed conveying real estate, without words of limitation, passes the whole estate of the grantor, unless a contrary intention appears by the deed. A deed or will is necessary to convey an estate of inheritance or freehold for a term of more than five years, in lands; and a deed is also necessary for a voluntary partition of lands by coparceners having such an estate therein. A deed or will is also necessary to make a valid gift of goods or chattels, unless actual possession shall have come to and remained with the donee, or some person claiming under him. The deed must be acknowledged before an officer authorized to take acknowledgments. (See acknowledgments.) His official character and when his commission expires must appear in the certificate, and acknowledgment must be taken within his county or corporation. Deeds must be recorded in the clerk's office of the court of the county or corporation in which the land lies, or in which the goods or chattels may be, except in the city of Richmond, where all papers are recorded in the clerk's office of the chancery court. Neither the acknowledgment nor registry of a deed is necessary to make it valid between the parties thereto, except in case of a deed from husband and wife, which must be acknowledged and registered to convey wife's interest. But no deed can be registered unless properly acknowledged or proved by two witnesses.

Corporations. The state corporation commission, consisting of three members, is the department of government through which must be issued all charters and amendments or extensions thereof, for domestic corporations, and all licenses to do business in this State to foreign corporations; and through which must be carried out all provisions for the creation, visitation, supervision, regulation and control of corporations chartered by, or doing business in this State.

Costs. Non-resident plaintiffs may be required to give security for costs on motion of defendant to any officer of the court.

Courts. Their Organization and Jurisdiction. The supreme court of appeals.—This is the court of last resort in this State. Its sessions are held at three points in the State, viz.: At Richmond, Staunton, and Wytheville. It has original jurisdiction in proceedings by mandamus, prohibition, and habeas corpus. The appellate jurisdiction of the supreme court of appeals extends to all criminal cases, to all cases involving the constitutionality of a law, controversies concerning title or boundaries of land, the condemnation of property, the probate of a will, appointment of personal representative, etc., without regard to the amount involved, and in all other civil cases where the amount in controversy is $300, or more, exclusive of costs and interest accrued after judgment of lower courts. Circuit court.—There are thirty-one circuit courts, presided over by as many judges, having jurisdiction of all matters of law and equity where the amount exceeds $20. Justice courts have jurisdiction to extent of $100; but any action, if for over $20, may be removed to the circuit 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. Corporation courts.—A city or town containing 5,000 inhabitants is entitled to a corporation court. These courts are given jurisdiction of both law and equity matters, and civil and criminal jurisdiction. Courts of the city of Richmond.—The circuit court of the city of Richmond (four terms a year) has within the city like jurisdiction of other circuit courts as above, except in chancery and criminal matters. The chancery court of the city of Richmond (four terms a year) is the court of record and probate for the city, and has general jurisdiction of chancery matters. The law and equity court of Richmond (four terms a year) has concurrent jurisdiction with the circuit and chancery courts of Richmond, except as to a few matters. The Hustings court (monthly terms) is the court of criminal jurisdiction within the city except as to small matters, which may be tried in the police court. It is the court of appeal for criminal matters which may be appealed from the police court. The police court of the city of Richmond has jurisdiction of criminal matters, such as may be tried by a justice of the peace. In cities of 45,000 or more there may be a civil justice court, presided over by a lawyer who has had five years' practice in this state. The court meets daily except on Sundays and legal holidays and cases may be heard upon five days' notice. The court has jurisdiction of claims less than $300 in value inclusive of interest. From any judgment of this court exceeding $20 exclusive of interest there may be an appeal as of right to any of the courts exercising common law jurisdiction in civil cases in such cities, but there can be no removal before trial. Richmond has such civil justice court.

Deeds. (See Conveyances, and Chattel Mortgages and Deeds of Trust.)

Depositions. Evidence in chancery causes is generally taken by depositions, while in common law cases it is generally oral, but depositions can be read in a common law case where the witness has died since his deposition was taken, or is out of the State, or is more than a hundred miles from the place of trial. The deposition of certain public officers, where the duties of the office prevent their attending court, may be taken and read. No commission is necessary to take a deposition, either within or without the State, except where an attesting witness to a will is unable, by reason of sickness, non-residence, etc., to give his testimony before the court in which the will is probated, except that when the depositions are to be taken in a state where a commission is necessary then the clerk of the court in this State where the suit is pending may issue such commission. Reasonable notice shall be given to the adverse party of the time and place of every deposition. In this State depositions may be taken by a justice of the peace or notary public, or a commissioner in chancery, except depositions in divorce proceedings, which the statute requires shall be taken in all cases before a commissioner in chancery. In the United States, but without this state, before any commissioner appointed by the governor of Virginia, or any justice, notary, or other officer authorized to take depositions in the state wherein the witness may be. In a foreign country, before any person that the parties may agree upon, in writing, or before certain officers of the United States.

Descent and Distribution of Property. Descent of Real Estate. When any person having title to any real estate of inheritance shall die intestate as to such estate, it shall descend and pass in parcenary to such of his kindred, male and female, as are not alien enemies, in the following course: 1. To his children and their descendants. 2. If there be no child, nor the descendant of any child, then to his father. 3. If there be no father, then to his mother, brothers and sisters and their descendants. 4. If there be no mother, nor brother, nor sister, nor any descendant of either, then one moiety shall go to the paternal, the other to the maternal kindred, in the following course: 5. To the grandfather. 6. If none, then to the grandmother, uncles, and aunts on the same side, and their descendants 7. If none such, then to the great-grandfathers, or great-grandfather, if there be but one. 8. If none, then to the great-grandmothers, or great-grandmother, if there be but one, and the brothers and sisters of the grandfathers and grandmothers and their descendants. 9. And so on, in other cases, without end, passing to the nearest lineal male ancestors, and for want of them to the nearest lineal female ancestors, in the same degree, and the descendants of such male and female ancestors 10. If there be no father, mother, brother, or sister, nor any descendant of either, nor any paternal kindred, the whole shall go to the maternal kindred; and if there be no maternal kindred, the whole shall go to the paternal kindred. And if there be neither paternal or maternal kindred, the whole shall go to the husband or wife of the intestate; or if the husband or wife be dead, to his or her kindred in the like course as if such husband or wife had survived the intestate and died entitled to the estate. Collaterals of the half-blood shall inherit only half so much as those of the whole blood, but if all the collaterals be of the half-blood, the ascending kindred, if any, shall have double portions. When those entitled to partition are all in the same degree of kindred to the intestate, they shall take per capita, but when those entitled to share in the estate are of different degrees of kindred, they take per stirpes.

Distribution of Personal Estate. When any person shall die intestate as to his personal estate, or any part thereof, the surplus (subject to certain exemptions), after the payment of funeral expenses, charges of administration and debts, shall pass and be distributed to and among the same persons, and in same proportions, to whom and in which real estate is directed to descend, except as follows: 1. The personal estate of an infant shall be distributed as if he were an adult. 2. If the intestate was a married woman, her husband shall be entitled to the whole of the said surplus of the personal estate. 3. If the intestate leave a widow, and issue by her, the widow shall be entitled to a third of the said surplus. 4. If the intestate leave a widow, but no issue by her, the widow shall be entitled absolutely to such of the personal property in the said surplus as shall have been acquired by the intestate by virtue of his marriage with her prior to the 4th day of April 1877, and remain in kind at his death; she shall also be entitled, if the intestate leave issue by a former marriage, to one-third; if no such issue, to one-half of the residue of such surplus.

Dower. A widow is endowed of one-third of all the real estate whereof her husband or any other to his use was at any time during the coverture seized of an estate of inheritance or entitled to a right of entry or action for such estate, unless her right to such dower shall be lawfully barred or relinquished. The right of dower may be relinquished by the wife uniting with her husband in conveying the real estate by deed of conveyance, etc., but no privy examination is now required. If wife, of her own free will, leave her husband and live in adultery, she shall be barred of her dower, unless he be afterward reconciled to her, and suffer her to live with him.

Executions may issue at any time within one year, and scire facias, or action to revive judgments within ten.

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. Waiver, to be effectual, must be in writing.

Foreign Corporations. Foreign corporations, when they have complied with certain statutory requirements, have all the privileges and disabilities of domestic corporations.

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Foreign Judgments. Action may be brought upon a judgment or decree of another state or country, unless barred by the laws of such state or country; but must be brought within ten years, if against a citizen who has resided ten years in this State.

Fraud. Every gift, conveyance, assignment or transfer of or charge upon any estate, real or personal, every suit commenced or decree, judgment, or execution suffered or obtained, and every bond or other writing given with intent to delay, hinder, or defraud creditors, purchasers, or other persons of or from what they are or may be lawfully entitled to, shall, as to such creditors, purchasers, or other persons, their representatives or assigns, be void. This section shall not affect the title of a purchaser for valuable consideration, unless it appear that he had notice of the fraudulent intent of his immediate grantor or of the fraud, rendering void the title of such grantor. Every gift, conveyance, assignment, transfer, or charge, which is not upon consideration deemed valuable in law, or which is upon consideration of marriage, shall be void as to creditors whose debts shall have been contracted at the time it was made, but shall not on that account, merely, be void as to creditors whose debts shall have been contracted, or as to purchasers who shall have purchased after it was made; and though it be decreed to be void as to a prior creditor, because voluntary or upon consideration of marriage, it shall not, for that cause, be decreed to be void as to subsequent creditors or purchasers.

Garnishment. By garnishment any money due the defendant upon claim reduced to judgment, may be collected and the proceeds applied by the court to payment of judgment against the defendant.

Husband and Wife. All real and personal estate to which any married woman is entitled at the time of the marriage, or which she may thereafter acquire or become entitled to during coverture, shall be and continue her separate estate. Such separate estate shall not be subject to the use, control, or disposal of her husband, or to his debts or liabilities incurred before or after marriage. A married woman has power to hold, control, and dispose of such estate as if she were unmarried. A married woman may engage in trade and carry on business (but not as a partner with her husband) for her separate use and benefit. She may make contracts as if sole in respect to such trade, and the profits therefrom shall be her separate estate. She may sue and be sued as an unmarried woman in the conduct of such business, and any liability incurred by her as such sole trader shall not render her husband or his estate liable for such debts.

Insolvency. (There is no special statute on the subject.)

Interest. Six per cent per annum; all contracts for a greater rate of interest shall be deemed to be for an illegal consideration as to the excess beyond the principal sum so loaned. If an excess beyond the lawful interest be paid in any case, the person paying the same may, in a suit brought within one year thereafter, recover it from the person with whom the contract was made; but where a bank or private individual has loaned money at a greater rate than 6 per centum and permits the maker of the note, bond, or other evidence of debt to renew the same at the rate of 6 per centum, the maker and endorsers shall be barred from the plea of usury, after twelve months from date of renewal A bank, licensed banker or broker, or corporation authorized to make loans, may take interest at rate of one-half of 1 per cent for thirty days, and may receive such interest in advance. Corporations cannot plead usury.

Judgments are liens on real estate possessed by debtor at or after the date of judgment, but no judgment shall be a lien on real estate as against a purchaser thereof for valuable consideration without notice until and except from the time that it is duly docketed in the clerk's office of the county or corporation wherein such real estate may be.

Jurisdiction. (See Actions and Courts.)

Liens. (See Judgments, Mechanics' Liens, and Supply Liens.)

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, contract, in writing (notes, etc.) signed by the party to be charged thereby, but not under seal within five years; accounts between merchant and merchant or for settlement of partnership, five years; on any other contract and on open accounts within three 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. (See Husband and Wife.)

Mechanics' Liens. Any person performing labor or furnishing materials for the construction, repair, or improvement of any property, building, or railroad, 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 sixty days from the time such building, structure, or railroad is completed or the work thereon otherwise terminated, and from the time such labor is last performed or materials furnished. 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.

Mines and Mining. Employes of a mining company are given a prior lien by statute for wages due.

Mortgages in general have been superseded by deeds of trust 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. (See also Chattel Mortgages and Deeds of Trust.)

Notaries. (See Acknowledgments.)

Notes and Bills of Exchange. Virginia has enacted the negotiable instruments law, prepared by the commissioners on uniformity of legislation in the United States, and all former legislation in conflict with it is repealed.

Probate. (See Wills.)

Recordation. Contracts in writing, deeds, or mortgages conveying real estate, or goods and chattels, which are admitted to record within ten days from the day of its being acknowledged before a person authorized to certify the same for record, shall, unless it be a mortgage or deed of trust, not in consideration of marriage, be as valid as to creditors and subsequent purchasers as if such admission to record had been on the day of such acknowledgment and certificate.

Suits. (See Actions.)

Supply Liens. All persons furnishing supplies necessary to the operation of any railway, canal, or other transportation company have a prior lien upon the property of such company. The lien must be filed in the clerk's office of the county or corporation court, where the chief office of the company is located within ninety days after the last item of the bill becomes due and payable.

Taxes. Individuals and corporations are subject to the same taxation laws, but the legislature, by special enactment, may exempt a corporation from taxation. Corporations pay taxes at the same rate as is required of individuals, but the manner of assessment is not uniform. In some classes of corporations the taxes are assessed on the actual capital invested; in others, on the amount of capital stock. Most of the mercantile corporations are assessed on the capital invested. For some classes of corporations there are special provisions relating to taxes. (It is impossible to treat of this subject in a short space.)

Testimony. (See Depositions and Evidence.)

Wills. Every person may make a will, except, 1. A person of unsound mind. 2. A person under twenty-one years of age; but a minor may, by will, dispose of personal estate if eighteen years of age. No will shall be valid unless it be in writing and signed by the testator, or by some other person in his presence and by his direction, in such manner as to make it manifest that the name is intended as a signature; and, moreover, unless it be wholly written by the testator, the signature shall be made or the will acknowledged by him in the presence of at least two competent witnesses, present at the same time; and such witnesses shall subscribe the will in the presence of the testator, but no form of attestation shall be necessary. The will of a man or woman is revoked by his or her subsequent marriage, except a will made in exercise of a power of appointment, etc. Will is also revoked by subsequent will or codicil, or by testator's canceling, destroying, etc., the same, with intent to revoke. A will is construed as if made just before testator's death, unless contrary intention appear by the will. The circuit, and corporation courts shall have jurisdiction as to the probate of wills (and to hear and determine suits and controversies testamentary) according to the following rules, that is to say: In the county or corporation wherein the decedent has a mansion, house, or known place of residence; if he has no such house or place of residence, then in the county or corporation wherein any real estate lies that is devised or owned by the decedent; and if there is no such real estate, then in the county or corporation wherein he dies, or a county or corporation wherein he has estate, except that in the city of Richmond, the chancery court shall have such jurisdiction. It shall be the duty of the personal representative of the testator to cause a duly certified copy of any will, or of any authenticated copy so admitted to record to be recorded, in the clerk's office of the county or corporation court of each county or corporation, wherein there is any real estate whereof the testator died seized and possessed.

SYNOPSIS OF

THE LAWS OF WASHINGTON

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by McWILLIAMS, WELLER AND McWILLIAMS, Attorneys at Law, Spokane. (See Card in Attorneys' List.)

Acknowledgments. Deeds, and other instruments may be acknowledged in this State before a judge of the supreme court, or the clerk, or deputy, before a judge of the superior court, or the clerk, or deputy, before a justice of the peace, or a county auditor, or deputy, or a qualified notary public. Outside this State before any officer authorized thereto in such state, or before any commissioner appointed by the governor of this State; and if not acknowledged before officer having a seal, a clerk of a court of record shall attach certificate. In any foreign country acknowledgments may be taken before any minister plenipotentiary, secretary of legation, chargé d'affaires, consul-general, consul, vice-consul, commercial agent of the United States, or the proper officer of any court of said country, or notary public or the mayor or chief magistrate of any city, town, or other municipal corporation therein. The following form is used; no separate acknowledgment is necessary for the wife:

State of Washington, } ss.
County of..... }

I, ... a Notary Pubic in and for the State of Washington, do hereby certify, that on this ..... day of ....., A. D., 19...., personally appeared before me ..... to me known to be the individual ..... described in and who executed the within instrument, and acknowledged that ..... signed and sealed the same as ..... free and voluntary act and deed, for the uses and purposes therein mentioned.

Given under my hand and official seal this ..... day of ....., A. D. 19.....

....., Notary Public.
Residing at ....., Washington.

Acknowledgment by a corporation substantially in the following form:

State of..... } ss.
County of ..... }

On this ..... day of ....., A. D. 190...., before me personally appeared ..... to me known to be the (president, secretary, treasurer, or other authorized officer or agent, as the case

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may be), of the corporation that executed the within and foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation, for the uses and purposes therein mentioned, and on oath stated that he was authorized to execute said instrument and that the seal affixed is the corporate seal of said corporation.

(Signature and title of officer.)

Actions. Every action must be prosecuted by the real party in interest; administrator, executor, guardian, or trustee of an express trust, may sue without joining the person for whose benefit the action is prosecuted. No action abates by the death, marriage, or other disability of the party, or by the transfer of any interest therein, if the cause of action survive or continue. Actions must be tried in the county in which the defendants, or some of them, reside at the time of the commencement of the action, subject to the power of the court to change the place of trial. Actions commenced by service of summons upon defendants, or by filing a complaint with the county clerk as clerk of the court; provided, that service must be had personally or commenced by publication within ninety days after such filing. Defendants to appear and defend within twenty days when served personally in the State, and within sixty days when served personally outside the State. When defendant can not be found summons may be published, after filing the complaint, once a week for six consecutive weeks, directing defendant to appear and answer within sixty days after first publication.

Administration of Estates. Any person having the custody of any will, or named as executor in any will, shall deliver said will into the superior court within thirty days after he shall have knowledge of the death of the testator or of his appointment as executor; wills shall be recorded within thirty days after probate; wills probated in any other state or country shall be admitted to probate in this State on the production of a certified copy of the original record of probate thereof, and a copy of such will. Letters of administration granted in the following order: 1. To surviving husband or wife. 2. To next of kin, in the following order: child or children, father or mother, brothers or sister, grandchildren, and, 3. To one or more of the principal creditors; provided that if the persons so entitled shall neglect for more than forty days after death of the intestate to apply for letters of administration, or shall waive their rights in writing then the court may appoint a suitable person. Executors or administrators must, within one month after appointment, make to the court a true inventory of the real and personal estate of deceased, appraised by three persons appointed by the court; a notice to creditors must be published four weeks, requiring all claims to be presented within one year after date of such notice; all claims not presented within the year specified shall be barred. Debts shall be paid in the following order: 1. Funeral expenses. 2. Expenses of last sickness. 3. Debts having preference by laws of the United States. 4. Wages due for labor within ninety days preceding the death. Taxes or any dues to the State. 5. Judgments rendered against deceased in his lifetime, and mortgages in the order of their date. 6. All other demands against the estate. A testator may provide in his will that trustees may manage and distribute his estate according to the will without reporting to the court, further than to probate the will and secure an order of court showing that the estate is solvent.

Affidavits. Affidavits may be taken before any judge of the supreme court, clerk, or deputy, judge of the superior court, clerk, or deputy justice of the peace, notary public, county auditor, or his deputy.

Aliens. The ownership of lands by aliens other than those who have declared their intention to become citizens, is prohibited, except where acquired by inheritance, under mortgage. In the collection of debts these provisions shall not apply to lands containing valuable deposits of minerals Every corporation, the majority of the capital stock of which is owned by aliens, shall be considered an alien.

Arbitration. Parties may arbitrate a disputed matter by selecting three arbitrators by an agreement in writing signed by both parties and the award of the arbitrators may be filed with the clerk of the Superior Court, judgment entered thereon and execution issued.

Assignments. No general assignment of property by an insolvent, or the benefit of creditors, shall be valid unless it be made equally for the benefit of all creditors. The debtor must annex to the assignment an inventory of all his estate and a list of his creditors; upon application of two or more creditors by petition, within thirty days from date of recording such assignment, the judge of the superior court shall direct the clerk to order a meeting of the creditors to chooose an assignee of the estate instead of the one named in the debtor's aassignment: a majority in number and value attending such meeting select one or more assignees, who, after giving bonds, file an inventory of the estate, publish notice to creditors, declare dividends pro rata to creditors, and close up the affairs. Upon the final report of the assignee, it appearing that the assignor has been guilty of no fraud, concealment, or diversion of property, that the estate has been made to realize the fullest amount possible, and that the expenses of the assignment have been paid, the court shall make an order discharging the assignor from any further liability on account of any debts existing prior to the assignment.

Attachment. A writ issued by clerk of court in which the action is pending at any time before judgment; 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, and that the attachment is not sought to hinder, delay, or defraud any creditor and, also, showing that defendant is a foreign corporation, or a non-resident of the State, or conceals himself or has absconded or absented himself from his usual place of abode, or that he has removed or is about to remove any of his property from the State, or has assigned, secreted, or disposed of, or is about to do so, any of his property with intent to delay or defraud his creditors; or is about to convert his property into money for the purpose of placing it beyond the reach of his creditors; or that he has been guilty of fraud in contracting the debt, or for damages from commission of some felony or from the seduction of a female. The plaintiff shall file a bond in a sum not less than $300 in superior court, or less than $50 in justice court, and in all cases double the amount for which judgment is sought.

Banks. Capital Stock. Minimum $10,000 in villages of 1,000 inhabitants; and graded up to $100,000 in cities having 50,000 inhabitants, or more. Shares $100; at least 50 per cent of the capital stock shall be paid in cash before commencing business, and the remainder shall be paid in five months, and payments certified to the state bank examiner under oath; incorporators, or directors, not less than three. Articles executed in quadruplicate, and state bank examiner shall issue certificate after personal examination, authorizing the bank to transact business.

Responsibility. Stockholders are held individually responsible, equally and ratably, for all contracts, debts, and engagements of such association accruing while they remain stockholders, to the extent of the amount of their stock at par value thereof, in addition to the amount invested in such shares.

Powers. Banks exercise all the usual banking powers, loan money on real estate or personal security, and accept and execute trusts.

Duties. A bank combining commercial and savings business shall keep separate books and accounts for each kind of business. Deposits carried in names of two persons jointly, may, upon the death of one, be paid out on the receipt of the survivor. If bank pays raised or forged check, the depositor must make claim within sixty days. No officer, or employe shall loan to himself any of the bank's funds upon his own note, without first obtaining approval of directors, entered in its records. At least one-tenth of profits shall be carried to surplus until surplus amounts to 20 per cent of the capital stock.

Reports. State examiner shall make personal examination at least once each year. His fees, $25 for each examination, plus one-two-hundredth per cent of all deposits. Maximum charge not more than $200. Banks shall make at least three reports each year to the examiner, on days designated by the comptroller of the currency. Reports to be published once in a local newspaper. The examiner may take charge of banks and suspend the officers. Attorney-general may bring suit for receiver.

Misdemeanor and Felony. Misdemeanor to use the name "bank," "branch bank," "banking company," "savings," or "trust," on sign or stationery, unless duly organized and incorporated. (Private parties and firms may use the term "private bank.") Felony to fraudulently receive any deposit knowing that bank is insolvent. Fine not exceeding $1,000, and imprisonment not exceeding ten years in the penitentiary, or both. Misdemeanor to certify a check unless the amount actually to credit of the drawer. Felony to wilfully and knowingly subscribe, or make false statement or false entry in the books of bank or exhibit fictitious papers or securities with intent to deceive examiner.

No bank shall purchase its own stock, nor loan upon its stock, nor subscribe for stock in any other bank.

A bank establishing a branch bank, shall increase its own capital stock to an amount equal to the branch, and the branch also shall have the required capital according to population as above.

Stock of United States or state banks shall be assessed to the owners in the cities or towns where such banks are located, and not elsewhere.

Shares assessed at their full and fair value on March 1, in each year, after deducting from the capital of said bank the actual portion thereof invested in real estate, which real estate shall be assessed as other real estate, but such value shall not exceed the paid-up capital, surplus, and undivided profits as shown bythe books of the banks. Parties who appear from the records of the banks to be the owners of shares at the close of the business day preceding the first day of March in each year, shall be deemed the owners for the purposes of taxation of this section.

Checks, Drafts, Fraud. Drawing checks or drafts on a bank with intent to defraud when the drawer has not sufficient funds or credit at the bank is a felony. Penalty, one to five years in the penitentiary, or not to exceed one year in the county jail.

Banks, Foreign. Foreign banks or bankers commencing a banking business in the State after January 1, 1905, may loan money and buy and sell exchange, but shall not receive deposits either directly or indirectly. Every foreign bank shall maintain at its office in this State a capital not less in amount than that required for a national bank at the same place, and shall pay taxes on such capital, and shall not advertise in any manner a arger capital or surplus than that maintained in the State. Penalty for violation $1,000.

Chattel Mortgages. Chattel mortgages may be had upon all kinds of personal property, rolling stock of railroad machinery, boats, crops, portable mills and such property; they shall be signed and acknowledged in the same manner as deeds; they shall be void as against creditors of the mortgagor or subsequent purchaser, unless accompanied by the affidavit of the mortgagor that it is made in good faith and without any design to hinder, delay, or defraud creditors, and placed on record in the county in which the mortgaged property is situated within ten days from the time of execution thereof. If mortgaged property be removed from the county mortgagee in order to retain his lien as against all others, must, 1, record his mortgage in the county to which property has been removed, within thirty days after such removal; or 2, take possession of said mortgaged property within thirty days after such removal; or 3, record his mortgage in the custom house. A mortgage on any vessel or boat, over twenty tons burden, shall be recorded in the office of collector of customs, where such vessel is registered, enrolled, or licensed. Mortgages upon crops can not be made for more than one year in advance. Before the expiration of two years after the time such chattel mortgage becomes due, the mortgagee, his agent or attorney shall file an affidavit setting forth the amount due, and the effect of such affidavit shall be to preserve the lien of such mortgage for one year from date of filing; otherwise, said mortgage shall cease to be valid as against third persons. (See Execution.)

Collateral. Collaterals may be foreclosed by suit in equity; but where the collateral note provides for notice and summary sale, the collateral may be placed in the hands of the sheriff, who will post notices for ten days, and sell the same at auction.

Community Property. All property acquired by husband or wife or both, during marriage, otherwise than by gift, devise or inheritance is community property, the spouses each owning an undivided one-half interest therein and can only be conveyed or incumbered by an instrument in writing executed jointly by both spouses; except that the husband has the management and control of community personal property with power to dispose thereof, but he shall not devise by will more than one-half of same.

Conditional Sales shall be absolute as to purchasers, incumbrancers, and subsequent creditors in good faith, unless within ten days from taking possession by the vendee, a memorandum of the transaction be filed in the auditor's office of the county wherein the vendee resides. Consignment of goods for sale if recorded will be protected. Commission merchant liable to fine and imprisonment for wrongful conversion of consignments.

Contracts. In the following cases, contracts shall be void, unless made in writing and signed by the party to be charged therewith: 1, every agreement that by its terms is not to be performed in one year from the making thereof; 2, every special promise to answer for the debt, default or misdoings of another person; 3, every agreement, promise or undertaking made upon consideration of marriage, except mutual promises to marry; 4, every special promise made by an executor or administrator to answer damages out of his own estate. 5. An agreement authorizing or employing a broker or agent to sell or purchase real estate for compensation or a commission. 6. Sale of goods of value of $50 or over unless the goods are accepted and received, or part of them, or payment made to bind the bargain. When a contract for the personal services of a minor has been made with him alone, and those services are afterward performed, payment made therefor to such minor in accordance with the terms of the contract is a full satisfaction for those services.

Conveyances. All conveyances of real estate and encumbrance upon real estate, shall be by deed, in writing and duly acknowledged by the party making and signing it. The use of private seals to signature abolished; and the term "heirs" or other technical words of

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inheritance is not necessary to create and convey an estate in fee simple. (See Acknowledgments and Married Women.)

The statute prescribes short forms for "warranty" and "quitclaim" deeds.

Corporations. Corporations formed under general laws. No corporation, except those engaged exclusively in loaning money on real estate, shall commence business until the whole amount of its capital stock has been subscribed. Any two or more persons, desiring to form a corporation, shall subscribe articles of incorporation in triplicate, and acknowledge the same, and file one copy in the office of the secretary of state, and another in the office of the auditor of the county in which the principal place of business of the company is to be located, and retain the third. Said articles shall state the corporate name, the object, amount of its capital stock, time of its existence (not to exceed fifty years), number of shares of capital stock, number of trustees and names of those who shall manage the company, for a time designated (not less than two or more than six months), and name of principal place of business. When the articles shall have been filed, the corporation shall have power 1, to sue and be sued; 2, to make and use a seal; 3, to purchase, hold, mortgage, sell and convey real and personal property; 4, to appoint officers, agents and servants, such as their business shall require, to define their powers, prescribe their duties and fix their compensation; 5, to require of them security, and to remove them at will except in the case of trustees (upon a vote of two-thirds of all the stock any trustee may be removed) to make by-laws, not inconsistent with the laws of the State and the United States; and 7, to conduct all kinds of business within the objects of the company, as expressed in the articles of incorporation. Shall pay an annual license to the secretary of state of $15. Secretary of state shall strike from the rolls in his office the names of corporations not paying annual license for two years. But they may be reinstated upon application by paying all license fees and penalties due and further sum of $20 each year its name has been stricken from the rolls. Forbidden to blacklist employes. Penalties, $100 to $1,000, or imprisonment from ninety days to one year, or both fine and imprisonment. Corporations may subscribe for, buy, sell, and vote shares in any other corporation. Conflict of names through similarity is forbidden. Any officer who shall publish or consent to the publication, any wilfully untrue, or fraudulently exaggerated report, prospectus, or other ducument intended to give a greater value to the shares of the corporation than they possess, with a view to defraud, shall upon conviction, be punished by imprisonment in the penitentiary for not less than one or more than five years, or in the county jail not more than one year, or by a fine not exceeding $2,000, or by both.

Courts and Jurisdiction. The supreme court is vested with all power to carry into complete execution all its judgments. and in all matters within its jurisdiction; it shall have original jurisdiction in habeas corpus, and quo warranto and mandamus as to all state officers, and appellate jurisdiction in all actions involving $200 or more. The superior courts are always open, except on non-judicial days; they have appellate jurisdiction in cases arising in justice courts. They have original jurisdiction in all cases in equity and in all cases at law, which involve the title or possession of real property, or the legality of any tax, impost, assessment, toll, or municipal fine; in all other cases where the demand amounts to $100, in criminal cases amounting to felony, and of misdemeanor not otherwise provided for by law; of actions of forcible entry and detainer, insolvency, probate, divorce, annulment of marriage, and special proceedings not otherwise provided for; they have power to issue writs of mandamus, quo warranto, review, certiorari, prohibition and habeas corpus for any person in actual custody in their respective counties; and their process shall extend to all parts of the State. Justice courts jurisdiction less than $100, (except where the action includes the title to real property, the enforcement of a lien on real estate), or a suit against an executor, or administrator as such; a transcript of judgment, filed in the office of the county clerk becomes a lien upon real estate of the judgment debtor. Garnishment in justice courts.

Days of Grace are abolished by negotiable instruments law.

Depositions may be taken when the witness resides out of the State, or more than twenty miles from the place of trial, or is about to go more than twenty miles from the place of trial and is liable to continue absent when the testimony is required, or is sick, infirm or aged, so as to make it probable he will not be able to attend at the trial. They may be taken in the State before any judge of the superior court, justice of the peace, clerk of the supreme or superior court, mayor of a city, or notary, by serving on the adverse party or his attorney previous notice of the time and place of examination, which notice shall be served in sufficient time to allow time by usual route of travel to attend, and three days for preparation, exclusive of the day of service; they may be taken out of the State by any person authorized by a special commission from any court of this State, which shall be issued by the clerk under the seal of the court; the court shall settle the interrogatories, which shall be attached by the clerk to the commission, or may be taken on oral questions and answers out of the State; five days' notice must be given to witness to attend and commissioners shall have power to compel attendance of witness by petition to the court for an order upon witness to attend, and for punishment for contempt or refusal to comply. (See Evidence.)

Descent and Distribution of Property. Upon the death of either husband or wife, one-half of the community property shall go to, and title vest in, the survivor, without administration, subject to the cummunity debts, and the other half shall be subject to the testamentary disposition of the deceased husband or wife, subject also to the community debts. In case of no will, half of the community property shall descend equally to the legitimate issue of the deceased. If there be no issue living, or none of their representatives, then said community property shall all pass to the survivor, to the exclusion of collateral heirs. Every illegitimate child is an heir to the person who shall in writing, signed by a competent witness, have acknowledged himself to be the father of such child; and such child shall in all cases be considered as heir of his mother. If any illegitimate child shall die intestate without lawful issue, his estate shall descend to his mother. The kindred of the half-blood shall inherit equally with those of the whole blood. Posthumous children are considered as living at the death of their parent. If decedent leaves no husband, wife, or kindred, the estate shall escheat to the State for the support of the common schools in the county where the decedent resided during lifetime, or where the estate is situated. (See Community Property.)

Dower. Statutes in regard to community property, real and personal, have taken the place of dower and tenancy by courtesy, which are abolished. (See Community Property.)

Execution. Execution may issue any time within five years after judgment. Personal property may be sold on ten days' notice. Real property may be redeemed any time within one year after sale by paying the amount bid, with interest at 8 per cent, and any taxes or charges paid by the purchaser. The purchaser shall be entitled to receive the rents and profits of the property during the period of redemption, and upon redemption the amount of such rents and profits, over and above the expense of caring for, protecting, and insuring property, shall be a credit upon the redemption money to be paid, and the redemptioner shall be entitled to a sworn statement of the income and expenses of such property before redeeming it. If the property sold be farm land, the owner shall be entitled to possession of such property from the 1st of April to the 1st of December or to be reimbursed for his work and labor in preparing such property for crops, or caring for planted crops. If the property sold be a homestead, occupied for that purpose at the time of sale, the judgment debtor shall have the right of possession during year of redemption without accounting for rents or value of occupation. The sheriff shall deliver deed within one year from date of sale, provided such sale has been confirmed by the court and no redemption has been made.

Exemptions. To every householder, a homestead to the value of $2,000, if selected any time before sale, also household goods to value of $500, and provisions and fuel for six months, and certain domestic animals with six months' feed for same, to value of $250; to a mechanic, tools and material used in his trade, not to exceed $500; to a farmer, teams and farming utensils, not exceeding $500, 150 bushels of wheat and oats or barley, 50 bushels of potatoes, 10 bushels each of corn, peas, and onions for seed; to a physician, his library, not exceeding $500, horse, buggy, and instruments, and medicines, not exceeding $200; to attorneys, clergymen, ad other professional men, their libraries, not exceeding $1,000 and office furniture, fuel, etc., not exceeding $200; to teamsters and loggers, cattle, horses, and wagons, not exceeding $300, and provisions for same for six weeks; to any persons, all fire arms for family use, and boat with rigging, not exceeding $250; any pension money from the United States, and fire insurance money to the amount of exemption allowed upon property, and the proceeds of all life and accident insurance are also exempt. Wages of $100 per month, due to any person having a family to support, shall be exempt from garnishment. Except when the debt is for actual necessaries furnished to debtor's family, then wages to the amount of $10 per week for four consecutive weeks shall be exempt. No property is exempt from an execution issued upon a judgment for the purchase price thereof, or for any tax levied thereon. No property exempt from execution for clerks', laborers' or mechanics' wages earned within this State, nor for actual necessaries not exceeding $50 in value or amount furnished to the defendant or his family within sixty days preceeding the beginning of an action to recover therefor, or from execution issued on a judgment against an attorney or agent for money belonging to client or principal.

Fraud. Statutes are enacted in the following cases: Falsely representing bank to be incorporated; receiving deposits after bank is insolvent or in failing circumstances; obtaining money under false pretenses; fraudulent representation that labor or material is paid for; using weights and measures known to be false; use of foreign ores or misrepresentation in selling mines; interference with samples of ores, or making false samples of same, or altering certificate of assayer regarding same: wearing badge or button of G. A. R. without right: misrepresentation of pedigree of breeding animals or when selling animals; removing mortgaged chattels; to issue false warehouse receipt.

Foreign Corporations. Before doing business in the State, a foreign corporation must file with the secretary of state a copy of its charter or articles of incorporation, or certificate of incorporation certified to by the custodian of the same in the state or country of its domicile; also a certificate executed under its corporate seal, appointing a resident of the State, giving his name and address, as agent of the corporation, upon whom service of process can be made. No corporation, the majority of whose capital stock is owned by aliens, can acquire the ownership of any lands in the State, except lands containing valuable deposits of minerals, and necessary lands for mills and machinery to work said products, except lands acquired under mortgage, or in good faith in the ordinary course of justice in the collection of debts. Provided that every foreign building and loan association or savings and loan association doing business in this State prior to July 1, 1913, shall deposit and keep with the State Auditor, or with a duly chartered trust company approved by the State Auditor, all mortgages heretofore received by it in this State, and all mortgages taken in the usual course of its business in this State; and Provided, further, that on and after July 1, 1913, no foreign building and loan association or savings and loan association shall be permitted to commence and do business within the State of Washington, unless such associations have been engaged in such business within the State prior to said date. Any agent of a foreign corporation carrying on business contrary to the statutes, shall be guilty of misdemeanor, and upon conviction, may be punished by a fine not exceeding $200, or by imprisonment not exceeding three months, or by both fine and imprisonment.

Garnishment. Garnishment may be issued in the following cases: 1. When an original attachment has been issued. 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. On a judgment the writ shall be returnable within twenty days if served upon garnishee within the county where issued, or within thirty days if served in any other county in the State; should he fail to make answer within the time prescribed in the writ, the court may render judgment by default against the garnishee for the full amount claimed by plaintiff. On garnishment in Superior Court before judgment bond must be given to defendants in double amount of demand. No bond is required in justice court garnishments either before or after judgment.

Husband and Wife. A husband or a wife may give, grant, sell or convey, directly, each to the other, his or her community right, title, interest, or estate in all or any portion of their community real property; and every deed so made shall operate to vest the real estate therein recited as separate property. Either may make and execute powers of attorney for the sale, conveyance, transfer, or incumbrance of his or her separate estate without the other spouse joining in the execution thereof; and either may appoint the other his or her attorney-in-fact for the purposes before stated. (See Community Property and Married Women.)

Inheritance Tax. All property within the State which shall pass by will or inheritance, or by deeed, grant or gift intended to take effect after death, shall be subject to an inheritance tax on the value of said estate, over and above all just debts and fees, which tax shall be a lien on said real estate. In determining the gross value of the said estate where some of the property is located in other states, an appraisement certified to by the foreign court having jurisdiction thereof, shall be filed in the court of this State and the taxes shall be paid upon the true market value of the entire estate, less the indebtedness. On all sums above the first $10,000, where the same shall pass to father, mother, husband, lineal descendant, adopted child, or lineal descendant of adopted child, one (1) per cent; on all sums not exceeding the first $50,000, if the estate goes to the collateral heirs, including the third degree, 3 per cent, and where the estates goes to collateral heirs beyond the third degree, or strangers to the blood, 6 per cent; $50,000 to $100,000, 4 1-2 per cent to collateral heirs to the third degree, and 9 per cent beyond the third degree or strangers; on all sums above the first $100,000, 6 per cent to collateral heirs to the third degree, and 12 per cent to collateral heirs beyond the third degree, said taxes to be paid to the state treasurer. (Laws 1901, June 11th.)

All bequests and devises for charitable purposes are exempt from the inheritance tax.

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Interest. The legal rate of interest is 6 per cent. Any rate not exceeding 12 per cent per annum, agreed upon in writing, is valid. All State warrants draw 5 per cent; all county, city, and school warrants draw not to exceed 8 per cent, and the public officers whose duty it is to issue warrants shall each month investigate the market value of warrants and fix the rate of interest on the same during the ensuing month. (See Usury.)

Judgments. A judgment is a lien for the period of six years upon the realty of a judgment debtor from the date of entry in the clerk's office, and no judgment can be revived or renewed. Judgments of state and federal court are liens in the county where entered and also where transcript is recorded.

Hunter's License. A resident to hunt in the county, $1; in the State, $5; a non-resident, $10; an alien, $50.

Liens. All vessels are liable for liens in following order for three years: 1. For services rendered on board. 2. For supplies furnished. 3. For work done or material furnished in this State for their construction, repair or equipment. 4. For their wharfage and anchorage in this State. 5. For non-performance of any contract for transportation. Liens for labor and material on all structures, railroads, mines, ditches, etc., to be filed in ninety days and suit brought in eight months; also liens for logs, lumber and farm products.

A blacksmith, wagon-maker, or boiler-maker may have a lien for material and labor expended upon a chattel. Notice of lien to be filed within ninety days after work done; suit to foreclosure must be had within nine months after filing, by notice and sheriff sale, as in chattel mortgages.

Limitations. One year—Action against sheriff or other officer for the escape of a prisoner arrested or imprisoned on civil process; against an executor or administrator for malfeasance or mismanagement of an estate, one year from discovery of same or from his final settlement. Two years—Action for libel, slander, assault and battery, false imprisonment; and for a forfeiture or penalty to the State. Three years—Contracts not in writing, open accounts, action for waste or trespass on real property, for taking or injuring personal property, for relief on round of fraud, for seduction and breach of promise. Five years—Action for the recovery of real estate sold by an executor or administrator; minors and other persons under legal disability to sue at the time when the right of action first accrued may commence action at any time within three years after the removal of the disability. Six years—Contracts in writing, judgment or decree of any court, or for rents, or profits of real estate. Ten years—Recovery of real property or the possession thereof; suits on street grade assessments.

Married Women. Married women have the same right to acquire, dispose of property, to contract, sue, and be sued, as if unmarried; not liable for the debts of husbands; may manage, devise, and convey her separate property. Wife must join with the husband in the conveyance of the community real property. If husband and wife be sued together, the wife may defend in all cases where she is interested. Expenses of the family and education of the children are chargeable on property of both husband and wife, or either of them, and they may be sued jointly or separately on such claims.

Mortgages. Mortgages are executed in same manner as deeds, they are not deemed a conveyance or transfer of title, but merely a lien for security, and the mortgagee, to gain title and possession, must proceed by foreclosure and sheriff's sale; upon default in the performance of any condition in the mortgage, the mortgagee may proceed in the superior court of the county where the land lies, to foreclose the same in a suit in equity. When there is an express agreement for the payment of the sum of money secured contained in the mortgage or any separate instrument, a deficiency judgment will be granted. Sale conducted as other sales on execution. If, before the final judgment, the defendant pay into court the interest due and any installment of principal then due, together with accrued costs, further proceedings shall be stayed until a default again occurs; sale of the property shall be made in parcel, if possible, and only so much shall be sold as will be sufficient to pay the judgment, with costs.

Notes and Bills. The negotiable instruments act is in force.

Powers of Attorney. Powers of attorney shall be executed and certified in the manner provided for the acknowledgment of deeds, and recorded as deeds. Husband or wife may give a power of attorney to the other spouse with full power to dispose of community property and any interest of the grantor. No limitations on powers conferred.

Probate Law. The superior courts have jurisdictions of all probate matters, with power to take proof of wills, grant letters testamentary and of administration, appoint guardians, settle estates of deceased persons, and the accounts of executors, administrators and guardians, and allow or reject claims against all said estates.

Protest. Notaries authorized to present bills of exchange and promissory notes, and protest the same, and to charge fees for noting, protesting, and mileage. No protest necessary on bills issued and payable within the State.

Redemption. At any time within one year from the date of sale on mortgage or other foreclosure of lien, or execution sale, the judgment debtor or his successor in interest may redeem the real estate by paying the judgment with the costs and 8 per cent interest thereon. Any subsequent judgment creditor or encumbrancer may likewise redeem. The purchaser is entitled to immediate possession, rents and profits from date of sale, except in the case of homestead or family residence; or in the case of agricultural land, the owner may retain possession, and the purchaser may have a lien on the crops raised or harvested, for interest on the purchase price at 6 per cent per annum, and for taxes.

Replevy. Affidavit shall be made by plaintiff or someone in his behalf, showing—1. That he is the owner of the property described, or is lawfully entitled to the possession thereof as set out by the facts respecting such possession. 2. That the property is wrongfully detained by defendant. 3. That same has not been taken for a tax, assessment, or fine, pursuant to a statute, or seized under execution or attachment, or, if so seized, that it is by law exempt from such seizure. 4. The actual value of the property claimed; he must also give bond in double the value of the property. The sheriff shall then take the property into custody, and, without delay, serve upon defendant personally a copy of the affidavit and bond, or, if he can not be found, then to his agent.

Taxes. Taxes shall be levied by the county commissioners at their meeting in October in each year, and all taxes, whether state, county, city, or school, are collected by the county treasurer and by him distributed to the proper funds. Taxes are due on the second Monday in January, and become delinquent on May 31, from which date interest at 15 per cent per annum is charged until paid; provided that if one-half of taxes be paid on or before May 31, then the time of payment of the remainder thereof shall be extended to November 30; but if said remainder be not paid on or before November 30, then such remainder shall be delinquent and shall draw interest as above from May 31 preceding. If taxes be delinquent six months any person may pay same and the county treasurer shall issue a delinquency certificate, the holder of which may bring suit in three years for sale and absolute title. If the taxes due in any year be paid on or before March 15 of said year, a rebate of 3 per cent shall be allowed.

Trust Companies. Seven or more persons may form a trust company: 1. The capital stock shall not be less than $100,000; except in cities of less than 25,000 inhabitants may organize with $50,000 capital, shares of $100 each, all of which shall be paid in cash before any trust company shall be authorized to transact any business. 4. Must make not less than two verified reports of resources and liabilities each year to the state bank examiner. Foreign Trust Companies. President and Secretary must file oath with secretary of State that capital stock is fully paid.

Warehouse Receipts. (See Bills of Lading.)

Wills. Every male person above twenty-one years of age, and every female person above eighteen years of age, of sound mind, may by last will devise his or her estate, real and personal. Every will shall be in writing, signed by the testator or by some other person under his direction and in his presence, and shall be attested by two or more competent witnesses subscribing their names thereto in presence of the testator. No nun-cupative will shall be good where the estate exceeds the value of $200, unless the same be proved by two witnesses who were present at the making thereof, and it be proven that the testator at the time of pronouncing the same did bid some person present to bear witness that such was his will, and that such nuncupative will was made at the time of the last sickness and at the dwelling-house of the deceased, or where he had been residing for ten days or more, except where such person was taken sick from home and died before his return; but mariners at sea and soldiers in the military service may dispose of their wages or personal property by nuncupative will; nuncupative wills must be offered for proof within six months after the speaking of the testamentary words.

Foreign wills legal if executed in form required by this state.

SYNOPSIS OF

THE LAWS OF WEST VIRGINIA

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by Messrs. BROWN, JACKSON & KNIGHT, Attorneys at Law, Charleston. (See Card in Attorneys' List.)

Acknowledgments. The clerk of the county court of any county in which any deed, contract, power of attorney, or other writing is to be, or may be recorded, shall admit the same to record in his office as to any person whose name is signed thereto, when it shall have been acknowledged by him or proved by two witnesses as to him, before such clerk of the county court. A clerk of the county court shall also admit any writing to record as to any person whose name is signed thereto, upon the request of any person interested therein, upon a certificate of his acknowledgment before a justice, notary public, recorder, prothonotary or clerk of any court within the United States, or a commissioner appointed within the same by the governor of this State, written or annexed to the same.

Actions. The common law forms are retained, modified by statute in some respects. Rules are held by the clerk on the first Monday and following Tuesday and Wednesday in each month at which parties file their pleadings at law and equity, take orders of publication and rules on opposite party to plead, etc.

Administration of Estates. Non-residents may qualify as personal representatives. Administrators may be appointed by the county court, which has general charge of all probate matters. Administration is granted to the distributees who apply therefor, preferring first the husband or wife, and then such of the others entitled to distribution as the court shall see fit. If any distributee fail to apply for administration for a period of thirty days after death of decedent, the court may grant administration to one or more of his creditors or to any other person. Bond is required for a penalty equal to full value of personal estate. If three months elapse without a personal representative being appointed, the court on motion may appoint the sheriff or any other county official who acts without giving additional bond.

Affidavits may be made before any officer of another state or country authorized by its laws to administer an oath, and shall be deemed duly authenticated if it be subscribed by such officer, and there be annexed to it a certificate of the clerk or other officer of a court of record of such state or country, under an official seal, verifying the genuineness of the signature of the first mentioned officer and his authority to administer an oath, and they may also be made before a commissioner appointed by the governor of this State.

Aliens. No disabilities attached to aliens, not enemies, in reference to purchase, enjoyment, conveyance, devise, or descent of property.

Arbitration. Parties to any controversy, whether there be a suit pending therefor or not, may submit the same to arbitration and agree that said submission may be entered of record in any court.

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Arrests. Defendant in an action may be arrested on the following grounds:
(1) That he has moved or is about to move his property from the State with intent to defraud his creditors, or
(2) that he has or is about to convert his property into money or securities with like intent, or
(3) that he has assigned or disposed of his property or is about to do so with like intent, or
(4) that he has property or rights of action which he fraudulently conceals, or
(5) that he fraudulently contracted the debt for which the action is brought, or
(6) that he is about to leave this State and reside in another without paying the debt for which the action is brought.

Assignments and Insolvency. There are no insolvent laws in this State. Assignments are made by a deed of trust acknowledged as other deeds and recorded in the office of the county clerk of the county wherein the property assigned or any part thereof is situated, conveying the property to a trustee to realize on the same and distribute it among the creditors. The deed ordinarily states the amount of the commissions of the trustee, which are usually 5 per cent, but if not so stated are 5 per cent on first $300 and 2 per cent on the balance. The assignee is not required to give bond unless some of his cestui que trusts demands it, in which case he must give bond before the clerk of the county court in a penalty equal to the full value of the property before sale is made. If the trustee fail to give such bond for twenty days after notice given, his powers cease and another may be appointed. Sale of merchandise in bulk prohibited unless due notice is given to creditors.

Attachments. In any action at law or suit in equity the writ may issue when the defendant is a foreign corporation, or a non-resident, has left or is about to leave this State to defraud his creditors conceals himself so that summons cannot be served upon him, is removing or is about to remove his property from this State,is converting or is about to convert his property into money or securities with intent to defraud his creditors, or has assigned or disposed of his property with like intent, or conceals his property or rights of action or fraudulently contracted the debt for which the suit or action is brought. Plaintiff or agent must make affidavit that one or more of these facts exist and unless attachment is issued on first grounds, affiant must also state in affidavit the material facts relied upon.

Banks. It is necessary to obtain charter from Secretary of State, also certificate from Commissioner of Banking before commencing public business. 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 creditcrs over and above the amount of stock held by them respectively, to an amount equal to their respective shares so held, and for all liabilities accruing while they are such stockholders. Trust companies doing business in this State must have capital of not less than $100,000 paid up and unimpaired. Foreign trust companies must obtain certificate from Banking Commissioner before doing business in this State.

Commissioner of Banking shall make an examination of each bank twice in each twelve months. Each bank shall make at least four reports annually to the Banking Commissioner, verified by oath of its president, or cashier. Each bank shall maintain on hand as a reserve an amount equal to at least 15 per cent of the aggregate of all deposits which are subject to withdrawal on demand.

Dividends may be declared annually, semi-annually, or quarterly, but before declaring any dividend a bank must carry one-tenth part of the net profit accrued to its surplus fund until the same shall amount to 20 per centum of its capital stock.

Chattel Mortgages and Deeds of Trust. The mortgage is practically unused in this State, the deed of trust having taken its place. Liens are taken upon chattels by a deed of trust acknowledged and recorded as other deeds of trust.

Conveyances. Deeds in West Virginia must be under seal, for which a scroll is sufficient in the case of a private person, and must be acknowledged or proven before two witnesses; when acknowledged witnesses are unnecessary. Any deed is void as to creditors and subsequent purchasers for a valuable consideration until and except from the time it is duly admitted to record in the county wherein the property conveyed is situated.

Corporations. They may be formed under general laws, but not created by special acts. Stockholders are liable to amount of their stock subscribed and unpaid. Cumulative voting. In absence of by-law, a majority of stock present constitutes a quorum. There must be at least five incorporators, who must pay in at least ten per cent of the capital stock subscribed, and two of the incorporators must make affidavit that said amount was paid in good faith. Corporations are not limited in the amount of their authorized capital stock. Corporations of other states are permitted to do business in this State by complying with certain regulations.

Courts, Terms and Jurisdictions. The jurisdiction of the circuit court is from $50 up. The jurisdiction of justices extends to all civil actions, provided the amount of money or damages, or the value of property claimed does not exceed $300, exclusive of interest and costs, excepting actions for false imprisonment, malicious prosecution, slander, breach of marriage promises, or seduction. Only five days are required to elapse between the service of the summons and the return day thereof, but the defendant upon making oath that he has a just defense to the action may have as a matter of right a continuance for one week.

Days of Grace. (See Negotiable Instruments.)

Depositions, without a commissioner, may be taken in or out of this State by a justice or notary public or by a commissioner in chancery or before any officer authorized to take depositions in the county or state where they may be taken, and if certified under his hand may be received without proof of the signature of such certificate. Reasonable notice shall be given to the adverse party of the time and place of taking depositions.

Descents and Distributions. Course of Descents. When any person having title to any real estate of inheritance shall die intestate as to such estate, it shall descend and pass in parcenary to his kindred, male and female, in the following course: 1. To his children and their descendants. 2. If there be no child, nor the descendants of any child, then to his father.. 3. If there be no father, then to his mother, brothers and sisters and their descendants. 4. If there be no mother, nor brother, nor sister, nor any descendant of either, then one moiety shall go to the paternal, the other to the maternal kindred, in the following course: 5. To the grandfather. 6. If none, then to the grandmother, uncles and aunts on the same side and their descendants. 7. If none such, then to the great-grandfathers or great-grandfather, if there be but one. 8. If none, then to the great-grandmothers or great-grandmother, if there be but one, and the brothers and sisters of the grandfathers and grandmothers, and their descendants. 9. And so on in other cases without end, passing to the nearest lineal male ancestors, and for want of them to the nearest lineal female ancestors in the same degree, and the descendants of such male and female ancestors. 10. If there be no father, mother, brother or sister, nor any descendant of either, nor any paternal kindred, the whole shall go to the maternal kindred; and if there be no maternal kindred, the whole shall go to the paternal kindred. If there be neither maternal nor paternal kindred, the whole shall go to the husband or wife of the intestate; or if the husband or wife be dead, to his or her kindred in the like course as if such husband or wife had survived the intestate and died entitled to the estate. 2. Collaterals of the half blood shall inherit only half so much as those of the blood. But if all the collaterals be of the half-blood, the ascending kindred, if any, shall have double portions 3. When the children of the intestate, or his mother, brothers and sisters, or his grandmother, uncles and aunts, or any of his female lineal ancestors, living with the children of his deceased lineal ancestors, male and female, in the same degree, come into the partition, they shall take per capita or by person; and where a part of them being dead and a part living, the issue of those dead have right to partition, such issue shall take per stirpes, or by stocks, that is to say, the shares of their deceased parents; but whenever those entitled to partition are all in the same degree of kindred to the intestate, they shall take per capita or by persons. 4. Bastards shall be capable of inheriting and transmitting inheritance on the part of their mother as if lawfully begotten. 5. If a man having had a child or children by a woman shall afterwards intermarry with her, such child or children, or their descendants, if recognized by him before or after the marriage, shall be deemed legitimate. 6. The issue of marriages deemed null in law, or dissolved by a court, shall nevertheless be legitimate. 7. Any person in ventre sa mere who may be born in ten months after the death of the intestate shall be capable of taking by inheritance in the same manner as if he were in being at the time of such death.

Distribution of Personal Estate. After payment of debts, etc. personal estate is distributed in the same manner as realty, with the following exceptions: 1. If the intestate was a married woman, and leave children surviving, her husband shall be entitled to one-third of the said surplus, and if she leave no children he shall be entitled to the whole thereof. 2. If the intestate leave a widow or children by the same or a former marriage, the widow shall be entitled to one-third of the said surplus, and if he leaves no children she shall be entitled to the whole thereof. To the State shall accrue all the personal estate of every decedent of which there may be no other distributee.

Dower. The widow is endowed of one-third of all the real estate whereof her husband or any other to his use was at any time during the coverture seized of an estate of inheritance, unless her right to such dower shall have been lawfully barred or relinquished.

Executions. In the circuit court can be issued after the close of the term, or the court, after the fifteenth day of the term, may make a general order allowing executions to issue after ten days from the date of the judgment or decree, although the term be not ended. For special cause an execution may issue at any time. In a justice court executions may be issued immediately after judgment is rendered. An execution is a lien on the personal property of the debtor from the time it is delivered to the officer. In a justice court a stay bond may be given by the defendant, which will stay execution for a length of time dependent upon the amount of the judgment, viz.: Not over $50, two months; $50 to $100, four over $1000, six months. The debtor may release property upon which an execution from the circuit court has been levied by giving a forthcoming bond, upon the forfeiture of which judgment may be obtained upon motion after ten days' notice, and an execution then issued, upon which no forthcoming bond is allowed to be given.

Exemptions. Any husband or parent residing in this State, or the widow, or the infant children of deceased parents, may set apart and hold personal property to the value of not exceeding $200, to be exempt, from execution or other process, except as hereinafter provided. And any mechanic, artisan, or laborer residing in this State, whether he be a husband or parent, or not, may hold the working tools of his trade or occupation to the value of $50 exempt from forced sale or execution. Provided, that in no case shall the exemption allowed any one person exceed $200. This exemption shall not apply to any claim for the purchase money of the personal estate in respect to which such exemption is claimed or to any proceeding for the collection of taxes or county or district levies. Such husband, parent, or infant children of deceased or insane parents may set apart a homestead of the value of $1,000, under certain regulations.

Garnishment. The plaintiff in an attachment, or a judgment creditor may, by an indorsement on the attachment order or by suing out a suggestion on his execution, as the case may be, designate any person as being indebted to or having in his possession the effects of the defendant or one of the defendants; and such person, upon service of the order and indorsement or suggestion upon him, is required to appear at the next term of the court, or if the action be before a justice upon the day ordered by the justice, and disclose under oath in what sum he is indebted to the defendant or judgment debtor, or what effects of the defendant or judgment debtor he has in his hands. The plaintiff or judgment creditor has a lien upon such indebtedness or property from the time of the service upon the garnishee.

Holidays. (See Negotiable Instruments.)

Husband and Wife. (See Married Women.)

Interest. Legal rate is 6 per cent. Corporations may make special contract for a greater rate. Excess of interest above 6 per cent, if usury is pleaded, except in the case of corporations, can not be recovered.

Judgments. All judgments for money are liens upon the real estate of the debtor at, and after, their date, or if rendered by the circuit court, from the first day of the term at which rendered. To preserve the lien as against a purchaser, for value, without notice, an abstract of the judgment must be docketed in the office of the county clerk within sixty days after its date, or before a deed to such purchaser is recorded. A judgment of a justice, as against such purchaser, is a lien only when docketed. Judgment liens are enforced in chancery after two years from the date of the judgment or after the return of an execution. "No property found."

Limitations. Saving certain exceptions in favor of persons under disability no person shall make an entry on or bring an action to recover any land, but within ten years next after the time at which the right to make such entry or to bring such action shall have first accrued to himself, or to some person through whom he claims. Personal actions for the recovery of money founded upon an award, or any contract other than a judgment or recognizance, shall be brought within ten years after the right to bring the same shall have first accrued if upon a bond or other contract in writing; if upon any other contract, within five years, unless it be an action for a settlement between partner and partner, or upon accounts between merchant and merchant, in which case it must be brought within five years from the cessation of dealing. Suit upon a recognizance, not a recognizance of bail, or upon a judgment shall be brought within ten years after the right to bring the same shall have first accrued; and upon a recognizance of bail, within three years. Every action upon a judg-

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ment rendered in another state or country shall be barred, if by the laws of such other state or country such action or suit would be there barred, and no such action shall be brought against any person who has resided in this state more than ten years upon a judgment or decree rendered more than ten years before the commencement of such action. A claim may be removed from the operation of the statute by a promise in writing to pay the same.

Married Women. A married woman may take by inheritance, grant, gift, bequest, or devise, and hold as her sole and separate property, free from the control and disposal of her husband and from liability for his debts, real and personal property as if a femme sole, and may convey and devise the same, but unless living separated and apart from her husband or he be non compos mentis, can sell and convey real estate, only when her husband consents thereto by joining in the deed or other writing.

Mortgages and Deeds of Trust. Mortgages are but little used in this State. They are executed and acknowledged in the same manner as deeds. A decree of a court of chancery is required to enforce them; hence, deeds of trust, under which the trustee sells the property when required by the cestui que trust, after default in payment has taken place. Sale is made at public auction upon four weeks' notice by advertisement, and by posting a notice at the front door of the court house of the county in which the property is, if the property be over $300 in value, in the opinion of the trustee, and it be in his opinion less than $300 in value, by posting such notice thirty days prior to sale at front door of court house and in three other public places in the county (one of which, in the case of real estate, shall be as near the premises to be sold as practicable). In all cases notice must be served on the grantor in the deed, his agent or personal representative, if in such county, at least twenty days prior to sale.

Negotiable Instruments. Negotiable instruments must contain an unconditional promise or order to pay a sum certain in money on demand or a fixed or determinable future time to order of a specified person or to bearer, may be in installments and contain the provision that on any default the whole shall become due; may authorize the sale of collateral securities and confession of judgment; may be payable at fixed time after date or sight, or after certain specified event, but not upon a contingency; if it reads "I promise to pay" all signers are jointly and severally liable; absence or failure of consideration is a matter of defense as against any person not a holder in due course and partial failure of consideration is a defense pro tanto whether the failure is an ascertained and a liquidated amount or otherwise.

Every endorser who indorses without qualification warrants that on due presentation the instrument shall be accepted or paid and if dishonored and necessary proceedings on dishonor taken he will pay amount to holder or subsequent endorser who may be compelled to pay it; no days of grace; when maturity falls on Sunday or holiday payment is due on next business day, if due on Saturday, it must be presented on next business day, but if payable on demand holder may present same before noon on Saturday if entire day is not holiday.

Presentment not necessary to charge the person primarily liable, but if instrument is payable at special place ability and willingness to pay it there at maturity is equivalent to tender; if not on demand presentment must be made on day it falls due; when payable on demand presentment must be made within reasonable time after its issue, except bill for exchange may be presented within reasonable time after last negotiation.

Acceptance. An unconditional promise in writing to accept a bill before it is drawn is deemed an actual acceptance in favor of every person who, upon the faith thereof, receives the bill for value. Holder may refuse qualified acceptance and treat bill as dishonored; if he takes qualified acceptance drawer and endorsers are discharged unless they authorized same or assented thereto.

Protest. Foreign bills which are dishonored by non-acceptance must be duly protested by notary or any respectable resident when bill is dishonored in presence of at least two credible witnesses. When bill is lost, destroyed or wrongly detained from the person entitled to hold it, protest may be made on copy or written particulars thereof.

Promissory note is unconditional promise in writing to pay on demand or at fixed or determinable time a sum certain in money to order or bearer; where note is drawn to maker's own order, it is not complete until endorsed by him.

A check is a bill of exchange drawn on a bank, payable on demand, must be presented within reasonable time after its issue or drawer will be discharged from liability thereon to extent of loss caused by delay. Where holder procures acceptance or has check certified drawer and endorsers are discharged. Check does not operate as an assignment of funds to credit of drawer in the bank and bank is not liable to holder unless it accepts or certifies the check.

The West Virginia negotiable instrument law went into effect January 1, 1908, and was intended to establish a law uniform with the laws of other states on that subject.

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 or deposit, or at 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, and may, upon being dishonored for non-acceptance or non-payment, be protested, and the protest be in such case evidence of dishonor in like manner as in the case of a foreign bill of exchange; and every instrument which is made payable at a day subsequent to its date, and is otherwise in the form of a check, shall be deemed a bill of exchange. A bill or note which becomes due on a Sunday shall be payable, and may be protested, on the succeeding day; or, if that be Christmas day, or the first day of January, or the twenty-second day of February, or the thirtieth day of May, or the fourth day of July, or on Labor day, then on the succeeding Tuesday; and a bill or note which becomes due on a day after a Sunday which falls on either of the said named dates, or on a Sunday bearing either of said dates, shall be payable, and may be protested, on the succeeding Tuesday; and a bill or note which becomes due on a Christmas day, or the first day of January, or the twenty-second day of February, or the thirtieth day of May, or the fourth day of July, or on Labor day, or any national or State election day, or a day appointed or recommended by the governor of this State, or the president of the United States, as a day of thanksgiving, or for the general cessation of business, shall be payable, and may be protested, on the succeeding day; and if such succeeding day be Sunday, then on the succeeding Monday; and a bill or note which becomes due on a Saturday shall be payable before 12 o'clock, noon, of that day, and if not then, paid shall be payable, and may be protested, on the following Monday; or if that be a day after a Sunday which falls on a date hereinbefore named, then on the next day. And no days of grace shall be allowed or counted on any negotiable instrument, except where it is otherwise provided in such instrument. The sending of notice of protest or dishonor of any bill, note or other negotiable instrument, by mail properly addressed to the last known postoffice of any party, shall be deemed equivalent to personal service of such notice upon him. Upon a duly protested negotiable note or bill of exchange, whether payable in or out of the State, an action of debt or assumpsit may be maintained and judgment given against all liable thereon, or against any one, or any intermediate number of them. If a person make, issue or deliver to another for value a check or draft, and has not funds in the bank to pay the check, he is guilty of a misdemeanor if amount is under $20; if over $20, a felony.

Power of Attorney should be acknowledged or proven in the same manner as deeds.

Probate Law. The county court, composed of three county commissioners, is the probate court, with jurisdiction for hearing proof and admitting wills to probate, appointing personal representatives and guardians, etc.

Protest. (See Negotiable Instruments.)

Replevin. The action of replevin is abolished. The plaintiff, in an action of detinue, can have immediate possession of the property in controversy upon proper affidavit being filed and giving bond. The defendant can reclaim property so taken by plaintiff, pending the termination of the suit, by giving counterbond.

Taxes are assessed as of the first day of January in each year, and are liens on the real estate on which they are assessed from such time. Every year sales are held by the sheriff of each county of the lands delinquent for taxes of the preceding year. One year after sale is allowed for redemption. All lands, upon which no individual will bid the amount of the taxes, etc., charged thereon at such sale, are knocked off to the State, and, after the time of redemption has expired, are sold in proceedings by the school commissioner of each county, and the proceeds pass to the free school fund of the State. There is a tax of 2 1-2 per cent on collateral inheritances of $1,000 and over in value.

Transfer of Corporation Stocks. Such stocks are transferable on the books of the company under such regulations as the by-laws prescribe. Can not be transferred without consent of the board of directors, unless fully paid up, or satisfactory security given for payment of the residue.

Wills. To be valid, a will must be in writing, and unless wholly written by the testator must be signed or acknowledged by him in the presence of two competent witnesses present at the same time, who in the presence of the testator and of each other shall subscribe the same. If a will be attested by a person to whom, or to whose wife or husband, any beneficial interest in any estate is thereby devised or bequeathed, if the will may not be otherwise proved, such person shall be deemed a competent witness; but such devise or bequest shall be void, except, that if such witness would be entitled to any share of the estate of the testator, in case the will were not established, so much of his share shall be saved to him as shall not exceed the value of what is so devised or bequeathed. If a will charging any estate with debts, be attested by a creditor, or the wife or husband of a creditor, whose debt is so charged, such creditor shall, notwithstanding, be admitted a witness for or against the will. No person shall, on account of his being executor of a will, be incompetent as a witness for or against the will. Where a will relative to estate within this State has been proved without the same, an authenticated copy and the certificate of probate thereof may be offered for probate in this State. When such copy is so offered, the court to which, or the clerk to whom, it is offered, shall presume, in the absence of evidence to the contrary, that the will was duly executed and admitted to probate as a will of personality in the State or country of the testator's domicile, and shall admit such copy to probate as a will of personality in this State; and if it appear from such copy that the will was proved in the foreign court of probate to have been so executed as to be a valid will of land in this State by the law thereof, such copy may be admitted to probate as a will of real estate.

SYNOPSIS OF

THE LAWS OF WISCONSIN

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by MARSHUTZ & HOFFMAN, Attorneys at Law, Milwaukee. (See Card in Attorneys' List.)

(References are to sections of Wisconsin Statutes 1913 and the Laws of Wisconsin for 1915.)

Acknowledgments. All acknowledgments of the execution of conveyances may be before the following, to-wit:

1. Within the State: Judge or clerk of court of record, court commissioner, county clerk, register of deeds, notary public, justice of the peace, police justice, or United States court commissioner. The officer taking same shall endorse thereon, a certificate of the making thereof and the date under his hand and seal, if any. (Notaries public must state also date of expiration of their commissions.) Such acknowledgment may be in the following form.

State of Wisconsin, } ss.
..... County. }

Personally came before me this....day of....., 19...., the above (or within) named A. B. and C. B., his wife (or if an officer adding the

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name of his office), to me known to be the persons who executeu the foregoing (or within) instrument and acknowledged the same.

....
(Insert designation of officer.)

2. Outside the State: Judge or clerk of a court of record, notary public, justice of the peace, master in chancery, or other officer authorized to do so, or commissioner appointed by the governor for such purpose or, if at a military post, before the commanding officer thereof, but, except as to specially appointed commissioner, the signature and the office held, by the acknowledging officer, must be certified to by certificate of a clerk of a court of record. Acknowledgments outside the State may be made on above or pursuant to the laws of such outside place.

Actions. The circuit and some county courts have general civil jurisdiction; justices of the peace of actions, (except as to some torts and action involving title to land) up to $200. In Milwaukee County a new civil court has been established with general civil jurisdiction up to $2,000. The practice is under a code. Non-residents must give security for costs on commencing suit if same is demanded, except in justice court, where it is always necessary.

Administration of estates is vested in the county courts. Notice by publication four consecutive weeks, or otherwise as directed by the court, must be given for proof of claims. Claimants have from six months to one year (generally six months) after order fixing time to file claims. All claims not filed within time limited are barred.

Administration of intestate is granted to
1. Widow, surviving husband or next of kin, or both, or such person as they may request, if suitable.
2. If above unsuitable, or if no request is made for thirty days after death, to one or more of principal creditors.
3. If neither in (1) or (2) willing or competent to act, then to such other person as the court thinks proper.
4. If neither (1) or (2) apply for sixty days after death, then any person in whose favor a cause of action exists, may obtain appointment.

Affidavits. (See Acknowledgments.) May be taken before any judge or clerk of a court of record, commissioner, county clerk, notary public, justice of the peace, United States court commissioner, or register of deeds. They may be taken in any other state or territory, before any judge, court commissioner, master in chancery, notary public, justice of the peace, or other officer authorized to administer oaths; but must have attached the certificate of a clerk or other proper certifying officer of a court of record of the county or district in which it was taken, under the seal of his office, that the person whose name was subscribed to the jurat was, at the date thereof, such officer as he is therein represented to be, and that he believes the signature of such officer to be genuine.

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 are not barred of dower. (See Descent, Dower.)

Arbitration. All persons, except those under disability, may, by agreement in writing, with one or more witnesses, submit any controversy, except claims to real estate, to one or more arbitrators, and, if stipulated, judgment may be entered on the award.

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; undertaking must be given for costs and damages from arrests. No female can be arrested on any action except for willful injury to person, character or property.

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 a sum not less than the present value of the 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 creditor is barred from dividend ordered and paid before 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.

Attachments. (See Garnishment.) May be had, on contracts, when indebtedness exceeds $50, 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 $5.00, 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 $250 must go with it. 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. Attaching creditors do not prorate. (See Assignment for Benefit of Creditors.)

Banks. State banks may be formed by any number of persons who associate to establish offices of discount, deposits, and circulation under the State banking act; the aggregate capital stock shall not be less than $25,000 nor more than $500,000, and the bank must be located in a township containing not less than 200 voters, and is not allowed to use circulating notes exceeding in amount the amount of capital stock. From banks of circulation, adequate security by deposit of bonds and public stock with the State treasurer is required before the issue of their bills. By recent acts the officeof bank examiner has been created. A careful scrutiny of State banking is now provided for, the duties of the State bank examiner being in general analogous to those of the federal examiners of national banks. The State bank examiner must visit, without any previous notice, every bank in the State once each year, and at any other time he deems it necessary, and shall have free access to all records, books, securities, and papers, and may examine on oath any officer or employe as to the business of the bank. At least three times in the year every bank shall report to the examiner, upon a prescribed form, showing fully the condition of business, and the report shall be published in a newspaper in the county. The examiner shall publish annually, report showing statements by banks. No security but the individual liability of each stockholder to the amount of his stock is required from banks of deposit and discount only, but this liability remains for six months after disposal of stock, and by written, declaration each stockholder may become individually liable for all debts of the bank.

It is made a misdemeanor by statute to issue a check with intent to defraud when the maker has no funds on deposit.

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 within thirty days before the expiration of every two years from date. When such mortgage shall be of a stock of goods, wares and merchandise, or of fixtures pertaining to same, the mortgage shall in addition, be filed in the office of the register of deeds in the county in which town, city or village is situated, in the office of the clerk of which the mortgage is filed. 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, the mortgagor every sixty days must file 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. Interest is limited to 10 per cent per annum; and all fees for renewals, etc., limited to 14 per cent per annum. There is no prescribed form of chattel mortgage.

Conveyances of any interest in land may be by deed signed, sealed and acknowledged by person conveying without any other ceremony, but no alienation by a married man of his exempt homestead shall be valid without the signature of his wife to the same. The following conveyances are sufficient to pass all estate grantor can lawfully convey and imply the usual covenants.

Warranty Deed. A. B. grantor, of .....county, Wisconsin hereby conveys and warrants to C. D., grantee, of....county, Wisconsin, for the sum of....dollars, the following tract of land in...county (here describe the premises.)

Witness the hand and seal of said grantor, this....day of....19....
In presence of
....(SEAL)
....(SEAL)

Quitclaim Deed. A. B., grantor, of.....county, Wisconsin, hereby quitclaims to C. D., grantee, of....county, Wisconsin, for the sum of....dollars, the following tract of land in....county (here describe the premises.)

Witness the hand and seal of said grantor, this....day of.....19..
In Presence of
....(SEAL)
....(SEAL)

Mortgage. A. B., mortgagor, of.....county, Wisconsin, hereby mortgages to C. D., mortgagee, of....county, Wisconsin, for the sum of....dollars, the following tract of land in....county, (here describe the premises).

This mortgage is given to secure the following, indebtedness (here state amount or amounts and form of indebtedness, whether on note, bond or otherwise, time or times when due, rate of interest, by and to whom payable, etc.)

The mortgagor agrees to pay all taxes and assessments on said premises, and the sum of....dollars attorney's fees in case of foreclosure thereof.

Witness the hand and seal of said mortgagor this....day of ....19..
In presence of
....(SEAL)
....(SEAL)

Corporations may be formed by at least three adult residents of state under written articles, stating business and purposes of corporation, name, location, capital stock, number of shares and par value. Articles must be recorded with secretary of state and in county where corporation is located. Until at least one-half of the capital stock is duly subscribed and at least 20 per cent thereof actually paid in, corporations cannot transact business with other than members. When a corporation is so organized, stockholders are liable to amount of stock subscription until same is fully paid. In case of banking corporations stockholder is further liable for debts of bank to amount of his stock, and similarly in other corporations for six months wages. Foreign corporations engaged in manufacturing with Wisconsin, shall, upon written request by any resident creditor, file within sixty days, and annually thereafter, a statement showing the amount of capital subscribed and amount thereof actually paid in, the full name of each of stockholders and amount of stock held by each, and the proportion of its capital stock represented by its Wisconsin property, and must pay to secretary of state upon such proportion over $25,000 one dollar for every $1,000. If corporation subject to license fees, such payment shall not exceed $25. (Chapter 399, Laws of 1901.) When these and all other provisions of statutes complied with, secretary of state issues license to corporation to transact business in State. Failure to file statement deprives corporation of right to carry on or transact business in Wisconsin.

Under the revision of 1898 is provided that no corporation, joint stock company, express company, or common law partnership, incorporated or organized otherwise than under the laws of this State, except corporations or associations created solely for religious or charitable purposes, insurance companies, and fraternal or beneficiary corporations, societies, orders, and associations furnishing life or casualty insurance or indemnity upon the mutual or assessment plan, shall transact business, or acquire, hold, or dispose of property in this State until such association, company, partnership, or corporations shall have caused to be filed in the office of the secretary of state a duly authenticated copy of its charter, articles of association or incorporation, or of co-partnership, and all amendments thereto which may be made while it shall continue to do business therein. Organizations complying with this rule shall be deemed to have appointed the secretary of state their attorney, upon whom all process may be made arising out of business transactions in this State, and the secretary of state shall mail a copy, thereof addressed to such organization. Violation of this rule subjects the organization to a penalty of $500 for the first offense, and $1,000 for every subsequent violation, and invalidates all contracts made by any such organization or partnership failing to comply with this rule, but such contracts may be enforcible against it or them. Every foreign corporation transacting business in this State shall annually between January 1st and March 1st, file with the secretary of state a report sworn to by the president, secretary, treasurer or general manager containing: (1) Name location of principal office without this State and principal office or place of business within this State, if any. (2) Names and addresses of officers of said corporation, and name and address of agent or manager representing it within this State. (3) Nature of business done in this State during preceding year. (4) Capital stock in money, property, or services. (5) The proportion of the capital stock represented in the State of Wisconsin. (6) That such corporation shall comply with all the laws of the State in regard to foreign corporations. In case of failure to file such report in the time above stated, such corporation shall pay $25.00 as penalty if filed before May 1st. In case report not filed then, the license to said corporation shall be void.

Courts. (See Actions.)

Days of Grace are abolished by statute.

Depositions. The testimony of any witness residing within the State and living more than thirty miles from the place of trial or hearing of the action, proceeding, or matter in which his testimony is wanted or not residing within the State, may be taken by the party desiring to use same, under commission, upon written or oral interrogatories. Notice of the taking of the depositions of a resident witness must be given, of not less than twenty-four hours, if taken in the same town, city or village where the hearing is had, and also the time at

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the rate of one day, Sundays excepted, for every fifty miles traveled from the place where such notice is served, and where the deposition is to be taken; outside of State, notice of at least two days shall be given, and also at the rate of one day for each three hundred miles from the place where notice is served. When notice has been served for taking deposition outside the State, and the taking of said depositions are in progress, additional notice of one day must be given for taking depositions of any additional witness or witnesses. Commissions may issue to any judge, master in chancery, notary or justice, or to any commissioner; no commission shall issue to any attorney who is the attorney for either party, except by express stipulation. All objections to the competency of witnesses or the propriety of any question put to him or the admissability of any testimony given by him, must be made at the time the deposition is produced, and unless so made is considered waived.

Descent and Distribution. Realty (except homestead, q. v.), undevised, descends to: 1. Children and their issue, if all are in the same degree; else by right of representation. 2. Widow or husband surviving. 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 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. Acceptance by widow of jointure or provision is presumed unless she gives notice of refusal within one year. 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. If no issue, all property goes to surviving husband or wife. A Wisconsin law imposing inheritance taxes has been declared constitutional.

Dower and Curtesy. (See Descent and Distribution.)

Executions from justice court may be stayed by bond for periods varying with amounts; 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 after return unsatisfied. Execution is issued, as of course, in favor of judgment creditor or his assignee, within five years after judgment; after five years, only on authority from the court.

Exemptions. (See Homesteads.) 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 residents only. 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 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 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. Answer of garnishee is conclusive unless issue taken thereon. If so taken, security for costs may be demanded and trial had as in other actions, and examinations of garnishee allowed. Garnishment may be released by proper undertaking in lieu thereof.

Homestead. (See Exemptions.) Real estate not exceeding $5,000 in value and 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. (Chapter 269. Laws of 1901.) But it is subject to mechanic's 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.)

Husband and Wife. (See Married Women.)

Interest. The legal rate is 6 per cent; maximum contract rate, 10. 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. (See Chattel Mortgages.)

Judgments. (See Executions and Limitations of Actions.) Judgments in circuit court keep debts alive for twenty years, are liens on land when docketed for ten years, and bear legal interest. Judgments of foreclosure bear interest at rate stated in mortgage note, but shall not exceed the minimum rate of interest, i. e. 6 per cent. Transcripts of judgments recovered in justice court may be docketed in circuit court and thus become a lien. Judgments may be satisfied by attorney or judgment creditor within five years; afterward by judgment creditor only.

Liens. Mechanics have liens on personal property to the amount of repairs. Every innkeeper, hotel keeper, and every keeper of a boarding house or lodging house, whether individual, copartnership, or corporation, shall have a lien upon and may retain the possession of all the baggage and other effects brought into his inn, hotel, boarding house, or lodging house by any guest, whether the same is the individual property of such guest or under his control, for the proper charges owing such innkeeper. Livery stable keepers and persons pasturing horses, cattle, etc., have liens on property in their possession. Consignees and factors and brokers have certain liens for advances made by them.

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, 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. Whenever any land or any interest therein has been or shall hereafter be taken, entered upon or appropriated for the purpose of its business by any railroad corporation, electric railroad or power company, telephone company or telegraph company without said corporation or company having first acquired title thereto by purchase or condemnation, as statute requires, the owner of such land, his heirs, assigns and legal representatives shall have and are hereby given the right to at any time within twenty years from date of such taking, entry or appropriation, sue for damages sustained, in the circuit court of the county in which land is situated. Absence from state, after cause of action accrued, suspends running of statute as does part payment, infancy, insanity, or imprisonment. In case of injury to person, no action can be brought unless notice in writing given or complaint actually served within two years from time of injury, describing it and grounds on which claim is made. The time is limited to one year in actions against railway companies for fires and injuries to animals. In case of injury to person upon highway, notice must be served within fifteen days in case of a city or village and thirty days in case of a county or town.

Limited Partnerships. (See Partnerships.)

Married Women. (See Chattel Mortgages, Homestead.) Have in general the same rights as other adults, except that they cannot become liable as sureties without an express charge of the debt on their separate estate. They can receive, hold, and convey property; transact business in her own name for herself; and may be sued and may sue in her own name as though she were unmarried and her husband or his creditors cannot reach her 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. By statute she can deal with her husband in exchanging property, as with any other person. Women become of legal age at 21 years, but married women can make will and bar dower at 18.

Mechanics' Liens. Any realty whereon labor or materials are used or furnished for any construction, repairs, or improvement is subject to a mechanics' 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. 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, if he gives notice of his claim to the owner within sixty days after date of last item of work or materials, provided that within ten days from the beginning of such work or the furnishing of such materials he also serves written notice on such owner personally, or if he cannot be found by registered mail, that he has commenced such employment or furnished such material, and that he will claim a lien therefor. Failure to serve such ten-day notice shall not be a bar to such right of lien if the owner is still indebted to the principal contractor in the amount sufficient to cover all of the sub-contractors' liens at the time of the service of the sixty-day notice; such lien must be filed within six months from the last date of the labor or furnishing of the materials and action must be commenced within one year from such date. This law went into effect May 13, 1913.

Mortgages. (See Chattel Mortgages, Deeds.)

Negotiable Instruments. (See Promissory Notes and Bills.)

Probate Law. The jurisdiction of the county courts extends to probate of wills, granting of letters testamentary and of administration on the estate of all persons deceased, who were, at the time of their decease, inhabitants or residents of the same county, or had property in such county to be administered. Such jurisdiction also extended to appointment of guardians and trustees, and settlement and control of estates of minors and persons under guardianship. (See Administration.)

Promissory Notes and Bills. By chapter 356, laws of 1899, the so-called uniform negotiable instruments act became the law in Wisconsin. Its general effect is to strengthen decidedly the negotiable character of commercial paper. The following are the principal changes in the Wisconsin law: 1. Protest may be made but it is not necessary except in case of foreign bills of exchange. 2. If a place of payment is specified in the note it must be presented at that place. 3. The fact that a note is to be paid with exchange, with costs of collection, or with attorney's fees, or bears a seal, does not affect its negotiability. 4. A holder who derives his title through the holder in due course and who is not himself a party to any fraud, duress, or illegality affecting the instrument, has all the rights of such former holder in respect to all parties prior to such holder. 5. An instrument obtained by fraud, duress, force, or fear, or based upon an illegal consideration, is defective instead of void, but if the maker did not know the nature of the instrument, and could not have obtained such knowledge by the use of ordinary care, the title of the holder is absolutely void.

Warehouse receipts are negotiable unless expressed not to be. Municipal orders, bonds, etc., are not negotiable unless expressly authorized by law. Days of grace are abolished. Damages on foreign bills 5 per cent, with costs and charges of protest. 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 succeeding secular or business day. Acceptance must be in writing and signed by the drawer, and if acceptance is not written on the bill when requested, the bill may be treated as dishonored. Notes, bonds, or other contracts based in part or wholly upon money staked, lost or won on gambling are absolutely void.

Replevin. Specific personalty may be recovered by this action, but in cases where immediate possession of such specific personalty demanded, it must be on an affidavit by or for plaintiff showing his title or right of possession and defendant's wrongful detention or taking. The defendant can regain possession of 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. Conditional sale contracts for furniture or household effects become chattel mortgages as soon as 50 per cent of purchase price has been paid, and right to redeem in case of seizure is given vendee. (See Chattel Mortgages.) "Futures" in grain, etc., are void if intended by both parties only as a wager on prices; else, valid.

By chapter 463 of the laws of 1901, the sale of any portion of a stock of merchandise, in bulk or otherwise, than in the ordinary course of trade and business is presumed fraudulent and void as against creditors unless the seller and purchaser, at least five days before the sale, notify personally or by registered mail each of the seller's creditors of such proposed sale. By Chap. 549, Laws of 1911, the "uniform

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sales act" was adapted and went into effect January 1, 1912. It codifies the law on the question of sales, contracts, warrantees, rights of parties, and defines terms ordinarily used.

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. As between grantor and grantee of land, where no express agreement, the grantee shall pay the taxes for the year in which the conveyance is made, if made before December 1st, but if after December 1st, then grantor to pay.

Transfer of Corporation Stock. Shares of stock are transferred by endorsement and delivered good in the hands of bona fide purchaser, or pledgee, for value as against all parties. The corporation may treat holder of record as holder in fact until transfer on record or new certificate issued, and courts will compel such record or issue.

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 and subscribed by two witnesses in his presence and at his request, and in the presence of each other. 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.

Workmen's Compensation Act. This act was passed by the 1911 Legislature and amended in 1913. It takes away some of the common law defenses of the master and provides for payment of a certain amount of the servant's wages during disability, and also in case of death. It has been held constitutional, and though comparatively new, meets with favor.

SYNOPSIS OF

THE LAWS OF WYOMING

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by WILLIAM C. KINKEAD, Attorney at Law, Cheyenne. (See Card in Attorneys' List.)

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 United States 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.

Actions. The distinction between an action at law and a suit in equity is abolished and the district courts of the various counties have a general common law and equity jurisdiction. Justices of the peace have jurisdiction, except in cases where the title to land comes into controversy, to the amount of $200. Non-residents of the State are required to furnish security for costs if application is made for that purpose, or to pay the costs of the action as they accrue. (See also courts and suits.)

Administration of Estates. All probate jurisdiction is vested in the district court of the county of decedent's domicile, or in the case of a non-resident, of the place where his property or the greater portion thereof is situated. Administrators, executors and guardians are appointed on petition and notice, the surviving husband, or wife, having preference of appointment ordinarily. Administrators and executors are required to furnish security to an amount equal to double the value of the personal property and the rents, issues and profits of the real estate. Guardians are required to give bond in such sum as may be prescribed by the court. Foreign executors can act here upon filing proof of their appointment as executor, and of the admission of the will to probate in the foreign jurisdiction. Administrators and executors are entitled to possession of all real and personal property and the income of all realty, except the homestead, during the period of administration. Claims against the estate of a deceased person should be presented to the executor, or administrator, for allowance within six months from the date of the letters testamentary, or of administration, and if such claims are not presented for allowance within one year from the date of such letters, they are barred

Affidavits. Affidavits may be made before any officer authorized to administer oaths.

Aliens. The State constitution provides that no distinction shall ever be made by law between resident aliens and citizens as to the possession, taxation, enjoyment and descent of property.

Arbitration. The law provides that all persons who have any controversy, except those relating to the possession or title to real estate, may submit such controversy to the arbitrament, or umpirage, of any person, or persons, to be mutually agreed upon by the parties, and they may make such submission a rule of any court of record in the State. The law further provides for process to compel the attendance of witnesses before the arbitrators, and for the enforcement of the award of the arbitrators when one is made.

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.

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 a 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.

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. 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 of 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. In civil actions before a justice of the peace involving an amount not to exceed $200 when affidavit is filed showing that claim is just and is founded on contract express or implied and is not secured attachment will issue.

Banks. 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 published once in nearest newspaper and copy of paper and statement filed within ten days in the office of the state examiner. 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.

Banks may act as executors or administrators, agents, trustees, etc. 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.

Chattel Mortgages. Chattel mortgages are required by law to be executed and acknowledged in the same manner as mortgages of real estate. They are required to be filed, but not recorded, in the office of the county clerk of the county where the mortgaged property is situated. The lien of the chattel mortgage continues until the indebtedness thereby secured, or the last installment thereof, becomes due, and for six months thereafter. After that time it continues in force as between the parties thereto, but it ceases to be valid as against the creditors of the mortgagee and as against subsequent purchasers, or mortgagees, in good faith. The chattel mortgage may be renewed by filing, during the period of six months, an affidavit setting forth the amount still due and unpaid of the original indebtedness. This affidavit, when filed in the office of the county clerk, continues the lien of the mortgage in force for a period of one year, and a similar affidavit may be filed within six months after the end of the said period of one year, and each year thereafter, by means of which the lien of the mortgage is continued in force. Chattel mortgage may cover future advances where specific sum as ultimate amount to be secured, date prior to completion of advances and date on which last installment of indebtedness secured shall mature are stated.

Collaterals. There is no statute relating expressly to collaterals.

Conveyances. (See Acknowledgments and Mortgages.)

Corporations. Corporations may be formed by three or more persons for the purpose of carrying on manufacturing, mining, commercial, and other kinds of business, and also constructing wagon roads, railroads, telegraph lines, irrigating ditches, dealing in real estate etc., and the incorporators are required to sign and acknowledge before some officer competent to take the acknowledgment of deeds duplicate certificates in writing, in which shall be stated the corporate name of said company, the object for which the company shall be formed, the amount of capital stock of said company, the term of existence (not to exceed fifty years), the number of shares of which the said stock shall consist, the number of directors and their names, who shall manage the concerns of the company for the first year, and the name of the town and county in which the operations of said company are to be carried on. One of the certificates must be filed in the office of the county clerk of the county wherein the business of the company is to

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be carried on and the other in the office of the secretary of state. Within 30 days after filing articles, notice of its incorporation must be published for three weeks in one newspaper of general circulation in this state giving all the above information. If three or more persons desire to form a company the object of which shall be to aid in the industrial or productive interests of the country, but without any purpose of direct gain to itself, then, in such case, such company shall not have a capital stock, and the certificate of incorporation shall so state giving the reason therefor. The number of directors for a corporation is not less than three nor more than nine, and the directors must be stockholders in the company. The capital stock of domestic corporations shall not be taxed. Both foreign and domestic corporations must have resident agent under penalty of forfeiture of all its rights and franchises.

Costs. In justice court the costs of suit are ordinarily taxed against the losing party. In the district court, when the judgment is less than $100, unless the recovery be reduced below that sum by counter claims, or let off, each party shall pay his own cost; and in all actions for libel, slander, malicious persecution, assault and battery, false imprisonment criminal conversation, or seduction, action for nuisance, or against a justice of the peace for misconduct in office, when the damage assessed is under $5, the plaintiff shall not recover costs. When it is not otherwise provided by statute, costs shall be allowed, of course, to the plaintiff, upon a judgment in his favor, in action for the recovery of specific, real, or personal property. Costs shall be allowed, of course, to any defendant, upon a judgment in his favor in the actions mentioned in the preceding part of this paragraph. In other actions the court may award or tax costs and apportion them between parties, on the same or adverse sides, as it may adjudge to be right and equitable.

Courts. Terms and Jurisdistion. 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 in the counties of Goshen, Platte, Niobraria, Campbell. Hot Springs and Washakie, where but one term is held each year. Special terms may be called by the District Judge, however, on being petitioned therefor by the Board of County Commissioners of the respective counties. 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.

Days of Grace abolished by the negotiable instrument act of the legislature of 1905, being an act to establish a law uniform with the laws of other states on that subject.

Depositions. The code of civil procedure makes provision for taking depositions upon commissions to which are to be attached interrogatories and cross-interrogatories, but the law is not very specific in regard to the method of taking depositions in this way. Definite provision is made for taking depositions in actions pending in the district court upon notice to be served upon the opposite party, or his attorney of record. The notice must be served in time to allow the adverse party sufficient time, exclusive of Sunday, the day of service, and one day of preparation to travel, with the usual route and modes of conveyance to the place named in the notice, which must state the time and place of taking the depositions. Depositions may be taken before any officer authorized to administer oaths. The officer taking the depositions must annex thereto a certificate showing that the witness was first sworn to testify the truth, the whole truth, and nothing but the truth; that the deposition was reduced to writing by some proper person, naming him; that the deposition was written and subscribed in the presence of the officer certifying thereto, and that the deposition was taken at the time and place specified in the notice. Depositions cannot be taken by a relative or attorney of either party to the case, or one who is otherwise interested in the event of the action or proceeding.

Descent and Distribution. In the case of parties owning property dying and leaving no will, distribution of the estate is made as follows: If such intestate leave a husband, or wife, and children, or the descendants of any children, him or her surviving, one-half of such estate shall descend to such surviving husband or wife, and the residue thereof to such surviving children and descendants of children, as limited by law; if such intestate leave a husband, or wife, and no child, nor descendants of any child, then the real and personal estate of such intestate shall descend as follows, to wit: All of said estate up to the sum of $20,000, after the payment of debts, descends to wife, and the balance if any, shall descend as follows, to wit: Three-fourths thereof to such surviving husband or wife, and one-fourth thereof to the father and mother of the intestate, or the survivor of them; provided, that if such intestate have a husband or wife and no child nor descendants of any child, or parent, or brothers or sisters, then the whole thereof shall descend to and vest in the surviving husband or wife, as his or her absolute estate, subject to the payment of the debts of the intestate. Except in cases above enumerated the estate of any intestate descends and is distributed as follows: First, to his children surviving and the descendants of his children, who are dead (the descendants, collectively, taking the share which their parents would have taken if living). Second, if there be no children, nor their descendants, then to his father, mother, brothers and sisters, and to the descendants of brothers and sisters who are dead (the descendants, collectively, taking the share their parents would have taken if living), in equal parts. Third, if there be no children nor their descendants, nor father, mother, brothers, sisters, nor descendants of deceased brothers or sisters, nor husband nor wife, living, then to the grandfather, grandmother, uncles, aunts, and their descendants (the descendants taking, collectively, the share of their immediate ancestors), in equal parts.

Dower. Under the territorial law formerly in existence and which has never been repealed, dower was abolished, and since the admission of Wyoming as a state no law has been enacted on that subject.

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. Provision is made for a stay of execution in justices' courts, for a period of thirty days on a judgment not exceeding $50, exclusive of costs, or a stay of four months on a judgment of $50 and not more than $100, exclusive of costs, and a stay of six months on a judgment in excess of $100, exclusive of costs. Provision is also made for a stay of execution in the district court for a period of six months from the time of the entry of judgment by the judgment debtor procuring one or more freehold sureties to enter into his recognizance, acknowledging themselves bail for defendant for the payment of the judgment, together with the interest and costs accrued, and to accrue. Provision is also made for a stay of execution in cases where an appeal or proceeding in error is taken to a higher court.

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, except where debtor is adjudged a bankrupt either in voluntary or involuntary proceedings; library and instruments of professional man, $300; homestead actually occupied as such by head of family in country, of value of $2,500.00 but not exceeding 160 acres; n town, lot or lots in value, $2,500.00; necessary wearing apparel of ivery person to the value of $150. One-half of the earnings of a e judgment debtor for his personal services, rendered at any time within sixty (60) days next preceding the levy of execution or attachment and due and owing at that time, where necessary to the use of a family supported wholly or in part by his labor, and residing in this State. 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.

Fraud. A judgment may be vacated for fraud practiced by the successful party in obtaining it. It is not a ground for a judgment debtor to be excused for not answering in an examination in regard to his property. It is also a ground for attachment.

Garnishment. The laws relating to attachment and garnishment are similar in character and there is no provision for garnishment except when ground for attachment exists, and a bond must be furnished, to obtain a garnishment in the same manner as to obtain an attachment. Garnishee process may be had in aid of execution after judgment, without such bond, and without affidavit, except such as may be necessary to lay the foundation for an order by the district judge for the examination of the judgment debtor or any person or corporation indebted to him.

Husband and Wife. The husband is not liable for the debts of the wife contracted before marriage, without an assumption in writing of such debts, but the estate of the wife is liable for debts of that character. Separate deed of the husband conveys no interest in the wife's lands. (See Married Women.)

Interest. In the absence of express contract, all moneys, claims, or judgments draw interest at the rate of 8 per cent per annum. Any rate may be agreed upon in writing, not exceeding 12 per cent per annum. If any greater rate is agreed upon the lender forfeits all interest. Unsettled accounts draw interest after thirty days from the 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. Judgments may be revived by statutory proceedings.

Liens. The law provides for liens of agistors and stable keepers, common carriers and warehouse men upon property entrusted to them to care for, and also for mechanics and material men for labor and materials furnished for the construction or repair of buildings, and also a lien for mechanics, artisans or other persons who may make, alter, repair or bestow labor upon any article of personal property at the request of the owner or party having possession thereof.

Limitations of Suits. On contracts not in writing, eight years, upon specialty or agreement in writing, ten (10) years; on all foreign judgments, or contracts made or incurred before debtor becomes a resident, within five (5) years after he establishes residence in the State; recovery of lands, ten years. Revivor: Part payment or acknowledgment in writing. Limited partnerships.

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. Real property sold under foreclosure of mortgage, either by decree of court or by advertisement, may be redeemed in six months by mortgage from date of sale, upon payment of the amount for which the property was sold and ten per cent interest thereon, and within three months thereafter by any creditor.

Negotiable Instrument. The legislature of 1905 passed what is known as the uniform negotiable instrument law, being an act to establish a law uniform with the laws of other states on that subject.

Notes and Bills of Exchange are subject to a state law which substantially enacts the law merchant. The 1st day of January, the 12th and 22d days 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.

Partnerships Limited. The law makes provision for special partnerships, which may consist of one or more persons, called general partners, and one or more persons called special partners Persons forming such a partnership must severally sign a certificate, stating, first, the partnership name; second, the general line of business intended to be transacted; third, the names of all the partners and residences, specifying which are general and which are special partners; fourth, the amount of capital which each separate partner has contributed to the common stock, and fifth, the period at which such partnership will begin and end. This certificate must be acknowledged and filed in the office of the county clerk and ex-officio register of deeds of the county in which the principal business of the partnership is situated. An affidavit of each of the partners, stating that the sum specified in the certificate of partnership, as having been contributed by each of the special partners, have been actually and in good faith paid, must be filed in the same office with the original certificate. The general partners in a special partnership are liable to the same extent as persons in a general partnership. The contributions of the special partner to the capital of the firm, and the increase thereof, are liable for its debts, but he is not otherwise liable, unless he has performed certain acts, specified in the statute, of a fraudulent nature or has willfully interfered with the business of the firm.

Powers of Attorney. When executed for the purpose of enabling the attorney in fact to convey real estate, powers of attorney must be executed with the same formalities as a deed, and they should be recorded in the office of the county clerk of the county in which the land conveyed by virtue of such instrument is situated.

Probate Law. (See Administration of Estates.)

Protest. Protest must be made by a notary public or any other officer authorized to administer oaths. It must be made by an instrument in writing giving a literal copy of the bill of exchange with all that is written thereon, or annexing the original, stating the presentment and the manner in which it was made, the presence, or absence of the drawee, or acceptor, as the case may be, the refusal to accept or pay, or the inability of the drawee to give a binding acceptance, and in case of refusal the reason assigned, if any, and finally protesting against all the parties to be charged.

Replevin. The action for replevin lies both in the district court and in the justice court for the purpose of obtaining the possession of specific personal property. In order to obtain a writ of replevin, it is necessary to file an affidavit showing a description of the property claimed, that the plaintiff is the owner of the property, or has an interest therein, and if the ownership, or interest is special or partial, the fact should be stated; that the property is wrongfully detained by the

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defendant and that it was not taken on process issued against the plaintiff, or if taken under such process that the property was exempt from execution, and that it is not held for any tax legally assessed, or levied against the plaintiff. In the district court the plaintiff is not required to give a bond until after the property has been taken by the sheriff, and if after the property is so taken the plaintiff fails to give the required bond within five days, then the property is returned to the defendant. The defendant may, within forty-eight hours after the property is taken, regain possession of it by giving an undertaking as provided by law, conditioned for the re-delivery of the property if adjudged. In the justice court the plaintiff is required to file a bond or undertaking, to the defendant in not less than double the amount of the value of the property, as stated in the affidavit of the plaintiff, before beginning his action.

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 thirty-first day of December following. In all cases where the tax is not paid on the thirty-first day of December 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 8 per cent on the amount unpaid is added to all taxes when they become delinquent. Delinquent taxes draw interest at the rate of 8 per cent 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 three years after the sale, by payment of the amount for which it was sold, 15 per cent of the same, interest on the whole amount at the rate of 10 per cent per annum, and subsequent taxes with 10 per cent per annum interest thereon, unless such subsequent taxes have been paid by the person redeeming.

Wills. Any wills to be valid must be n writing, or typewritten, witnessed by two competent witnesses, and signed by the testator, or by some person in his presence, and by his express direction, and if the witnesses are competent at the time of attesting the execituon of the will, their subsequent incompetency, from whatever cause it may arise, shall not prevent the probate and allowance of the will. No subscribing withess to any will can derive any benefit therefrom unless there be two disinterested and competent witnesses to the same, but if without a will such witness would be entitled to any portion of the testator's estate, such witness may still receive such portion to the extent and value of the amount devised. Wills are admitted to probate in the court of the proper county upon petition being filed, and after notice by publication for not less than ten, not more than thirty days from the production of the will. Every custodian of a will, within thirty days after receipt of information that the maker thereof is dead, must deliver the same to the district court having jurisdiction of the estate, or to the executor named in the will.

SYNOPSIS OF

THE LAWS OF ALBERTA

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by Messrs. Taylor, Moffat and Moyer, Calgary, Alta., Barristers, Solicitors and Notaries. (See Card in Attorneys' List.)

By chapters 41 and 42 of the acts of parliament of Canada for the year 1905, the Provinces of Alberta and Saskatchewan were erected out of a portion of the Northwest Territories. By the acts creating these Provinces, existing territorial laws were continued until pealed or amended by the legislatures of the new Provinces.

Administration of Decedent's Estate. Probate of wills or letters of administration are granted by the district court in the judicial district where the deceased resided when he died; in case death was outside the Province, the district where there was any property of the deceased. Bond, with one or two sureties, is required from a person to whom letters of administration or guardianship are committed. Where probate or letters of administration granted in the United Kingdom or any dominion or British Province are produced to, and a copy thereof deposited with the clerk of the district court, they may under the direction of the judge, be sealed with the seal of the district court, and thereupon will have the same force and effect as if granted by that court. A judge has power, in his discretion, to order sale of an infant's estate. Real property descends as chattels, and becomes vested in the executor or administrator as personal property.

Affidavits. In matters in Court affidavits must be intituled in the cause or matter and must be drawn up in the first person and must state the name of the deponent in full, his description and true place of abode. Affidavits for use in Alberta when sworn outside the Province and in Great Britain and Ireland or any British possession, before a Judge of a Court of Record or before the mayor or chief magistrate of any city, borough or town under the common seal of such city, borough or town; or before a notary public or person lawfully authorized to administer oaths therein; and when in any foreign country before any of His Majesty's consuls or vice-consuls, a judge of any court of record or of supreme jurisdiction or before a notary public certified under his hand and official seal, or before commissioner authorized by the laws of Alberta to take affidavits in such foreign country, or before the mayor or chief magistrate of any city, borough or town corporate under the common seal of such city, borough or town.

Every person administering oaths shall express the time, when and the place where the affidavit is taken. All interlineations, alterations or erasures whether in the jurat or body of the affidavit shall be authenticated by the initials of the officer taking the affidavit. Accounts, extracts, documents, etc., referred to in the affidavit must be referred to as exhibits and must be marked by the officer taking the affidavit.

As to affidavits of execution see Deeds, etc., below.

Rules of Court, 1914, Sections 413-428, Alberta Evidence Act, 1910.

Aliens may acquire, hold, and dispose of real property as effectually as a natural born British subject.

On account of the state of war between the United Kingdom of Great Britain and Ireland and the German Empire and between the United Kingdom of Great Britain and Ireland and the Austro-Hungarian Monarchy an order in Council was passed on the 15th day of August, 1914, providing for the status of all persons in Canada of German or Austro-Hungarian nationality.

This order in Council provides that so long as such people quietly pursue their ordinary avocations they shall be allowed to continue to enjoy the protections of the law and shall not be arrested, detained or interfered with unless there are reasonable grounds to believe that they are engaged in espionage or engaging or attempting to engage in acts of a hostile nature or are giving or attempting to give information to the enemy or unless they otherwise contravene any law, order in council or proclamation.

Provision was also made for the arrest and detention of German or Austro-Hungarian officers, soldiers or reservists who attempt to leave Canada and of all subjects of the two countries mentioned above who attempt to leave Canada and in regard to whom there is reasonable ground to believe that their attempted departure is with a view to assist the enemy, and for the arrest and detention of all subjects of the nations mentioned above engaged in or attempting to engage in espionage or acts of a hostile nature.

See Canada Gazette, August 15, 1914.

Arrest. There is no provision made for arrest for debt.

Assignments and Insolvency. Assignment of property by any person at any time when he is in insolvent circumstances, or is unable to pay his debts in full, or knows that he is on the eve of insolvency, with intent to defeat or delay or prejudice his creditors, or one or more of them, or to or for a creditor with intent to give such creditor a preference over the others, or over any one or more of them, or that has that effect, is void. If assignment is attached within 60 days after the date thereof, it is sufficient to show that the assignment had the effect of preferring without proving the intent; but an assignment made by the debtor to the official assignee for the purpose of paying all his creditors rateably and proportionately and without priority, or any bona-fide sale of goods, or payment made in the ordinary course of trade to innocent purchasers, is valid.

All assignments made for the general benefit of any creditors to person other than the official assignee are null and void.

Attachment of Debts. Debts due or accruing due to a defendant or judgment debtor may be attached by garnishee summons either before or after the signing of judgment, upon affidavit of the plaintiff, his solicitor or agent, setting out the facts required. The clerk issues a garnishee summons.

After service upon the garnishee all debts due or accruing due are bound and must be paid into Court or to the Sheriff.

See Rules of Court, 1914.

Attachment of Goods. Property not exempt from seizure under execution may be attached after the commencement of an action wherein the claim is for the recovery of a debt of $100.00 or upwards.

An ex parte application grounded upon affidavit made by the plaintiff or by his agent having a personal knowledge of the matter, stating from what cause the claim arose and the amount thereof and that the deponent has good reason to believe (giving reasons therefor) that the debtor is about to or has absconded from Alberta leaving personal property liable to seizure under execution or has attempted to remove such personal property out of Alberta or to sell or dispose of the same with intent to defraud his creditors generally or the plaintiff in particular, or keeps concealed to avoid service of process; and stating also that the deponent verily believes that without the benefit of the attachment the plaintiff will lose his debt or sustain damage; and upon the affidavit of one other credible person that he is well acquainted with the defendant and has good reason to believe (giving such reasons) that the defendant is about to or has absconded or has attempted to remove his personal property out of Alberta or to sell or dispose of the same or keeps concealed to avoid service of process, must be made to the Judge who, if satisfied with the material submitted directs the Clerk of the Court to issue writ of attachment directed to the Sheriff authorizing him to attach and keep all the personal property of the defendant.

Where the debtor has actually absconded or is about to abscond from the Province leaving no wife or family behind no property of such debtor shall be exempt from seizure. The amount of the debt is stated in the writ of attachment and the Sheriff levies for the amount thereof and the costs of the action. A creditor who attaches a debt shall be deemed to do so for the benefit of all creditors of the debtor as well as for himself.

Vide Rules of Court, 1914, Sec. 666, sqq.

Statutes, 1910, Cap. IV. Secs. 4 and 5.

Banks. The subject of Banks is one which by the provisions of the British North America Act is expressly reserved for the Dominion Parliament. The Legislature of the Province has no power to deal therewith. The legislation on the subject is contained in the Bank Act of 1913, being Statutes of Canada, 3 and 4, George V, Chap. 9. For a resume of its main provisions see the synopsis of the laws of Ontario.

Bills of Exchange and Promissory Notes. Three days' grace is allowed on all notes and bills other than those payable on demand, etc. In case of dishonor the indorser is relieved from liability unless he has been given notice of dishonor. Bills and notes falling due on legal holidays are payable the day after. No stamps are required. The Bills of Exchange Act, 1890. See Revised Statutes of Canada, 1906, Chap. 119.

Bulk Sales Act. Whenever any trader, commission merchant, or manufacturer shall bargain for or purchase any stock of goods, wares or merchandise in bulk for cash or on credit, and shall pay any proportion of the purchase price, or execute or deliver to the vendor or his order or to any person for his use any promissory note or other document for or on account of the purchase price of any stock of goods, wares or merchandise in bulk, without first having demanded and obtained from the vendor or from his agent, or if the vendor is a corporation, from the President, Vice-President, Secretary, Treasurer or Manager thereof, a written statement verified by the statutory declaration purporting to set forth the names, addresses and amounts of the indebtedness or liability due, owing, payable or accruing due by the vendor to each of his creditors, then such sale shall with respect to any action or proceeding within sixty days thereafter brought, had or taken against the purchaser to impeach or set aside such transaction be deemed fraudulent, and shall be absolutely void as against the creditors of the vendor, unless the whole or the proceeds of such sale, or sufficient thereof to satisfy the claims of all the creditors of the vendor is in fact actually accepted by the vendor on or towards the payment of all his creditors without giving any preference or priority to one over another such as is provided by law, or previous contract. This provision applies when goods are again re-sold for the purpose of evading the act, and the purchaser is held liable for the debts hereinbefore recited, unless he obtains the statutory declaration of all the accounts due, and either obtains a waiver from the creditors of their accounts or applies the purchase price on the payment of the same. Provision is made for payment of the purchase money to an official assignee for distribution pro rata among all creditors of the vendor.

See Bulk Sales Act, Statutes of Alberta, 1913, Chap. 10.

Caveats on Land. Any person claiming to be interested under any will, settlement or trust deed, or any instrument or transfer or transmission or under an unregistered instrument or under an execution where the execution creditor seeks to affect land in which the execution debtor is interested beneficially, but the title to which is registered in the name of some other person or otherwise howsoever in any land, mortgage or encumbrance, may cause to be filed on his behalf with the registrar a caveat in form W in the schedule to this act against the registration of any person as transferee or owner of, or of any instrument affecting, such estate or interest, unless such instrument be expressed to be subject to the claim of the caveator.

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Registration by way of caveat shall have the same effect as to priority as the registration of any instrument under the Act. The Registrar may allow the withdrawal of caveat and registration in lieu thereof of the instrument under which caveat filed if such instrument may be registered under the Act.

Land Titles Act, Statutes of Alberta, 1906, Chap. 24.

(See also Married Women.)

Chattel Mortgages. Chattel mortgages to secure debts require an affidavit of execution, and affidavit of bona fides to be made by the mortgagee or his duly authorized agent or the manager, where the mortgagee is a corporation (a copy of such authority to be attached to the affidavit) stating that such mortgage is given in good faith, that the mortgagor is justly and truly indebted to the mortgagee in the amount claimed, and that it is not given to defeat the creditors of the mortgagor. In the case of an incorporated company the affidavit may be made by the agent or manager, without the authority being attached. They must be registered within thirty days from execution with the registration clerk of the district in which the goods are situate and must be renewed within two years from date of registration and renewed thereafter every year. In case of goods being removed into a new registration district a certified copy of the mortgage, affidavits, etc., must be registered with clerk of new district within three weeks of such removal. Similar provisions also exist respecting chattel mortgages to secure endorsements and also future advances. (Bills of Sale, Ord. 1895.) No chattel mortgage intended to apply to or effect any growing crop or crop to be grown shall be valid so far as the said crop is concerned unless the same shall be made, executed or created as security for the purchase price and interest thereon of the seed grain.

Bills of Sale Ordinance.

(See also Seizures and Sale.)

Claims Against Estates of Deceased Persons. The executor, administrator or any creditor may apply to a judge in chambers for the administration of the estate of a deceased person, and for payment of claims against the estate.

Provision is also made for the appointment of an official administrator.

In the administration of the estate of the deceased persons simple contract debts and specialty debts rank equally. (Imp. Act, 32-33; Vic. Cap. 40.)

Conditional Sales. No sale or bailment of goods to the value of $15.00 or upwards, conditioned that the right of property or of possession shall remain in the seller or bailor, is good as against a purchaser or mortgagee from the buyer or bailee, or against judgments, executions, or attachments, unless the sale or bailment is in writing and signed by the buyer, bailee. or their agent, and containing a description of the goods such that they may be known. The writing or a true copy thereof, accompanied by an affidavit of the seller. bailor, or his agent, stating that the writing truly sets out the agreement and that agreement is bona fide and not for the purpose of protecting the goods, must be registered in the registration district where the buyer or bailee resides within 30 days after actual delivery of the goods. If the goods are delivered in a district other than that in which the buyer or bailee resides registration must be made also within the same time in the district in which the goods are delivered. In the case of a subsequent removal registration must be made in the district into which the goods have been removed within 60 days of such removal. A seller or bailor repossessing must hold the goods for 20 days and give 5 days notice of sale.

(See Seizure and Sale.)

Corporations. Incorporation of a company for any lawful purpose to which the authority of the Legislative Assembly of the Province extends may be obtained under the Companies Ordinance of the Province by any number of persons not less than three in number.

Application is made by filing with the Registrar Memorandum of Association signed by the applicants, being not less than three in number, and otherwise complying with the Ordinance.

Companies may be limited by shares, by guarantee or may be incorporated as unlimited companies. Where limited by shares shareholders are only liable for unpaid balance on the shares subscribed for. Mining Companies may be incorporated under special provisions relating to such and if so provided in charter shareholders are not liable for more than the amount paid by them on shares. Companies may also be incorporated under the Dominion Companies Act.

By the Corporations Taxation Act, 1907, certain corporations are subject to special taxes to be paid to the Province.

No Foreign Company having gain for its object is allowed to carry on any part of its business in the Province until it is duly registered and cannot sue for any debt contracted until registered and is further liable to a fine, subject however to the proviso that the taking of orders by travellers for goods, wares or merchandise to be subsequently imported in to the Province to fill such orders, or the buying or selling of such goods, wares or merchandise by correspondence, if the company has no resident agent or representative and no warehouse, office or place of business in the Province. is not to be deemed to be carrying on business within the meaning of the Foreign Companies Ordinance. Foreign Companies may register under the statute relating to such Companies on paying the necessary fees and otherwise complying with the provisions of the Ordinance. Any such company must appoint an attorney resident within the Province.

Insurance Companies and Banking Companies must be incorporated under the acts of the Parliament of the Dominion of Canada.

Creditors, Relief of. There is no priority among execution creditors of any debtor. The Sheriff realizing moneys under execution must hold same for thirty days and in case of an absconding debtor for two months, and all creditors filing claims in manner pre scribed within the times mentioned share any moneys in the hands of the Sheriff. Special provisions are made for filing of claims under particular circumstances.

Creditors' Relief Act, Statutes of Alberta, 1910.

Courts. There are two courts; supreme and district. The judges of the supreme court have jurisdiction in any judicial district in the Province. The judges of the district court only have jurisdiction in their respective judicial districts, but an action begun in one district may be transferred to another. The district court has jurisdiction in all cases, actions, matters, suits or proceedings, whether of debt, covenant, contract or damage or involving the validity of any will or settlement or in relation to land or any legal or equitable interest therein, or in actions seeking equitable relief or for a declaratory judgment, or to establish the right of a creditor to rank upon an insolvent estate, and generally in all matters which may be made the subject of a claim for relief whether legal or equitable, or to enforce any right whether legal or equitable where the debt, damage, claim or demand does not exceed $600. The district court has also jurisdiction in all probate matters. The supreme court has jurisdiction in all other matters.

Deeds—Acknowledgments, etc. This is an incorrect appellation under the existing ("Torrens") system of land transfer. Land is now conveyed by a transfer. Transfers, mortgages, etc., should be executed in the presence of one witness who can write, and for the purpose of registration an affidavit of execution must be attached or endorsed. General forms are provided by statute relating to registration. The affidavit of execution, if made in the Province, shall be made before the inspector of land titles offices, registrar or deputy registrar of the district in which the land is situate, or a judge, or a stipendiary magistrate, notary public, commissioner for taking affidavits, or a justice of the peace in and for the Province; if made in any province of Canada, before a judge or any court of record, any commissioner for taking affidavits in such province for use in any court of record in Alberta, or before any notary public under his official seal. In Great Britain or Ireland before a judge of the supreme court of judicature in Great Britain or Ireland, or of the court of sessions or judiciary court in Scotland, or a judge of any county courts within his county, or the mayor of any city or incorporated town under its common seal, or before any commissioner in Great Britain or Ireland for taking affidavits for use in Alberta, or a notary public under his official seal; or if made in any British possession or colony out of Canada, before a judge of any court of record, the mayor of any city or incorporated town under its common seal, or notary public under its official seal; if made in a foreign country, before the mayor of any city or town under its common seal, or the British consul, vice-consul, or consular agent therein, or before a judge of any court of record, or a notary public under his official seal. (Land Titles Act, Alberta.)

Depositions. Depositions in any case or matter pending in court may be taken out of the Province under commission. Application for same is made by way of Notice of Motion before a Judge or Master in Chambers.

Descent. The laws relating to both real and personal property are the same. If the intestate leaves a widow and any child or children, or descendant of any child, the widow shall take a third part. If intestate leaves no issue, his widow shall take all, provided that she has not left him and lived in adultery after leaving him. The husband of a married woman is entitled to the whole of her effects on her death intestate. If the intestate leaves a widow and child or children, two-thirds of his estate shall go to such child or children. The father of any person dying intestate without wife or children takes all intestate's property. The mother of any person dying intestate without wife, child, or father, takes all. In the distribution of the personal property of any woman dying intestate, her illegitimate children shall be entitled to the same rights as if they were legitimate. The mother of any illegitimate child dying intestate shall take all the personal property of such child. By Chapter 5 of the Statutes of Alberta, 1915, it is enacted that when any person dies intestate owning real or personal property and without leaving any next of kin or other person entitled thereto by the laws of Alberta such property shall immediately on his death vest in His Majesty in the right of Alberta. Provision is made by this statute for the Lieutenant Governor in Council granting any such property or any interest therein to any person having a legal or moral claim upon the deceased.

Distress. (See Seizure and Sale.)

Dower. There is no dower but by the Married Women's Relief Act, 1910, the widow of a man who dies leaving a will by the terms of which his widow would in the opinion of the Judge receive less than if he had died intestate may apply to the Supreme Court for relief and the Court on such application may make such allowance out of the estate of the deceased as he may deem just and equitable in the circumstances. (See also Married Women.)

Evidence. (See Testimony.)

Executions. Executions may be issued immediately on signing judgment unless the judge fixes a period for payment. Every writ of execution shall be issued against both good and lands of the debtor and shall remain in force so long as the judgment on which it is issued remains in force unless otherwise provided by any statute for the purpose of such statute.

Exemptions. The following are exempt from seizure under writs of execution: 1. The necessary and ordinary clothing of the defendant and his family. 2. The furniture, household furnishings, dairy utensils, swine and poultry belonging to the defendant and his family to the extent of $500. 3. The necessary food for the defendant's family during six months, which may include grain and flour or vegetables and meat, either prepared for use or on foot. 4. Three oxen, horses or mules, or any three of them. six cows, six sheep, three pigs and fifty domestic fowls, besides the animals the defendant may have chosen to keep for food purposes, and food for the same for the months of November, December, January, February, March, and April, or for such of these months or portions thereof as may follow the date of seizure, provided such seizure be made between the first day of August and the thirtieth day of April next ensuing. 5. The harness necessary for three animals, one wagon or two carts, one mower or cradle and scythe, one breaking plow, one cross plow, one set harrows, one-horse rake, one sewing machine, one reaper or binder, one set sleighs and one seed drill. 6. The books of a professional man. 7. The tools and necessary instruments to the extent of $200 used by the defendant in the practice of his trade or profession. 8. Seed grain sufficient to seed all his land under cultivation, not exceeding eighty acres, at the rate of two bushels per acre, defendant to have choice of seed, and fourteen bushels of potatoes. 9. The homestead of the defendant, provided that same be not more than one hundred and sixty acres; in case it be more, the surplus may be sold subject to any lien or encumbrance thereon. 10. The house and buildings occupied by the defendant, and also the lot or lots on which same are situate, according to the registered plan of the same, to the extent of $1,500.

Any article except for the food, clothing, and bedding of the defendant and his family, the price of which forms the subject matter of the judgment upon which execution issued, is not exempt.

In case of death, the exemptions may be claimed by the widow, children, executor, administrator, or other personal representative of the deceased.

Interest. Five per cent is the legal rate of interest if no other is agreed upon. Any rate not exceeding 12 per cent per annum may be contracted for on claims under $500, subject to provisions of Money Lenders Act and any rate on loans of $500 or over. Court may allow interest on debts.

Judgments. To be binding on land a writ of execution issued on the judgment must be registered in the Land Titles Office. Writs of execution issued prior to the first day of September 1914, must be renewed in Land Titles Office and shall then remain in force so long as the judgment on which it is issued remains in force. All writs issued subsequent to said date remain in force so long as judgment.

Liens, Mechanics'. Every mechanic, machinist, builder, miner, laborer, contractor, and other persons doing work upon and furnishing materials in respect to any building, erection or mine, or furnishing machinery or material in respect thereof, has a lien for the amount of such work or value of such material, machinery, etc., on said building erection or mine, etc.. and the lands on which same are situate. He has thirty-five days within which to file statement of his account in the Land Titles Office and every lien in respect of which an affidavit has been filed against the title of the land shall be deemed to have lapsed after the expiration of sixty days after service upon the lien holder of a notice provided for by the Mechanics Lien Act unless before the expiration of the said sixty days the lien holder shall have taken proceedings in Court to enforce his lien and shall have filed in the Land Titles Office certificate of lis pendens.

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Limitation of Actions. All actions for recovery of merchants accounts, bills, notes, and all actions of debt grounded upon any contract without specialty shall be commenced and sued within six years after the cause of such action arise, contracts under seal twenty years, judgments twelve years, except foreign judgments, for which the period of limitation is six years if the debtor appeared in or attorned to the original court, or was resident within its jurisdiction in which such foreign judgment was obtained. If he did not appear or attorn, or was not resident within the jurisdiction of such court, then such foreign judgment is really of no value, and claim in Alberta should be based upon the original cause of action, and the period of limitation will be governed accordingly.

Married Women. Real and personal estate of married women are free from husband's debts. She may convey to her husband and her husband may convey to her without the intervention of trustees She has no dower in her husband's estate. She may carry on business separate from her husband as if she were a femme sole. Her husband is not entitled to any estate by curtesy in her real property. By the Married Women's Home Protection Act, Statutes of Alberta, 1915, it is provided that any married woman may cause to be filed on her behalf with the Registrar of the proper Land Titles Office a married woman's caveat forbidding the registration of transfer, mortgage or other instrument made by or on behalf of her husband affecting a homestead being the house and buildings occupied by such married woman as her home at the time of the filing of the caveat or which has been occupied by her as her home within six months prior to the time of the filing of such caveat. Provision is made for the withdrawal of such Married Woman's caveat and also for the husband applying to a Judge of the Supreme Court of Alberta to have the caveat removed.

Mortgages. Mortgages are executed in the form prescribed by the Land Titles Acts (Torrens' System). A mortgage does not operate as a transfer of land, but after default of payment the mortgagee can institute foreclosure proceedings which are carried on by direction of court. Mortgages must be duly registered under the provision of the Land Titles Act, and take priority in order of registration. The Mortgagor and all transferees are impliedly bound by the covenant for payment contained in the mortgage. (See Land Titles Act, Alberta.) Proceedings on mortgages are now fixed by an amendment to the Land Titles Act in 1915, such amendment being Section 63a of the said Act.

Partnership. All persons associated in partnership for trading, manufacturing, contracting or mining purposes in the Province must file in the office of the Registration Clerk of the District declaration in writing signed by the various members and giving particulars required by act. Registration must be made within six months after the commencement of the partnership.

Every person engaged in business for any of the purposes mentioned and who is not in partnership with anyone but trades under a name indicating a plurality of members shall file declaration setting out particulars.

The act provides for penalty for non-registration and also provides for the filing and publication of declaration of dissolution of partnership.

Proof of Claims. In all cases in which the party pleading relies on any misrepresentation, fraud, breach of trust, wilful default or undue influence and in all other cases in which particulars may be necessary, particulars shall be stated in the pleadings provided that if the particulars be of debt, expenses or damages and exceed three folios the fact must be so stated with reference to full particulats delivered or to be delivered. (Rules of Court. 1914.) If the claim is contested, claims may be proved by commission to take evidence abroad. If on judgment, exemplification of same is required. If the plaintiff resides out of the jurisdiction, defendant may demand security for costs which must be furnished within time fixed by court of, or action stands dismissed. The security usually ordered is a deposit of $200 or more or a bond with two resident responsible sureties in the sum of $200.

Protest. Protest must be made by a notary public or in absence of a notary then by a justice of the peace. It must be made by an instrument in writing giving a literal copy of the bill of exchange with all that is written thereon, or annexing the original, stating the presentment and the manner in which it was made, the presence, or absence of the drawee, or acceptor, as the case may be, the refusal to accept or pay, or the inability of the drawee to give a binding acceptance, and in case of refusal the reason assigned, if any, and finally protesting against all the parties to be charged.

Recording Acts. Registration of land in the Province of Alberta and registration offices are provided for by the Land Titles Act of Alberta. The registration districts are respectively North Alberta and South Alberta. Transfers, mortgages, assignments, and other instruments, to be in substance in forms given by act, which are of very simple character. It is further declared in act that no instrument till registered be effectual to pass any estate or interest in any land (except a leasehold interest for the period of three years or less), or render such land liable as security for payment of money, but when registered has full force and effect. An instrument before registry must be attested by a witness, who must make affidavit as to same. Instruments take priority according to time of registration. A certificate of title may be granted under the act, which is declared to operate as conclusive evidence that the person named in such certificate is entitled to the land included in such certificate for the estate and interest therein specified. An assurance fund is provided to compensate a party deprived of land by any fraud, error, omission, or misdescription, in any certificate or title.

Redemption. (See Mortgages.)

Replevin. The plaintiff claiming that personal property was unlawfully taken and is unlawfully detained may obtain an order of replevin. Such order may be obtained from the Clerk on praecipe grounded on affidavit of the plaintiff or his agent stating description and value of the property and the right to possession and that the property was unlawfully taken or fraudulently got out of his possession within two months next before making the affidavit, etc.

Such order may also be obtained from a Judge on motion. Before the Sheriff replevies the plaintiff must give a bond to him in such sum as is prescribed by order or if no sum is prescribed in double the value of the property.

Rules of Court, 1914.

Review of Judgment. Appeal lies to the Appellate Division of the Supreme Court. Notice must be given within twenty days after formal judgment or order has been signed and entered. Leave to appeal is necessary where the amount in question on appeal is less than $200. Execution is not stayed unless specially ordered by the Judge. (See Rules of Court, 1914.)

Seizure and Sale. Every distress or seizure under any lien, attornment clause in real estate mortgage or agreement for sale, conditional sale, chattel mortgage, bill of sale, lien note, hire receipt, ware-house receipt or any other extra judicial process shall be made, levied and executed by the Sheriff, Sheriff's Bailiff or some person authorized in writing by the Sheriff, Assistant or Deputy Sheriff and by no other person whatsoever. No sale may be made without first obtaining leave of the Court.

Statute of Frauds. The fourth section of the Imperial Statute of Frauds is in force and is as follows: "That no action shall be brought whereby to charge any executor or administrator upon any special promise to answer damages out of his own estate: or whereby to charge the defendant upon any special promise to answer for the debt, default, or miscarriage of another person or to charge any person upon any agreement made in consideration of marriage, or upon any contract or sale of lands, tenements, or hereditaments, or any interest in or concerning them or upon any agreement that is not to be performed within the space of one year from the making thereof, unless the agreement upon which action shall be brought or some memorandum or note thereof shall be in writing and signed by the party to be charged therewith, or some other person thereunto by him lawfully authorized."

By the sale of goods ordinance a contract for the sale of goods of the value of $50.00 or upward shall not be enforceable by action unless the buyer shall accept part of the goods so sold and actually receive the same, or give something in earnest to bind the contract or in part payment, or unless some note or memorandum in writing of the contract be made and signed by the party to be charged, or his agent in that behalf.

No action shall be brought whereby to charge any person either by way of commission or otherwise, for services rendered in connection with the sale of any land, tenements, or hereditaments or any interest therein, unless the contract upon which recovery is sought in such action, or some note or memorandum thereof, is in writing signed by the party sought to be charged, or by his agent, thereunto lawfully authorized in writing.

Taxes. Taxes are lien on land. The local improvement act provides that where taxes are in arrears for two years land may be forfeited and redemption may be made within one year. School assessment Ordinance provides that land may be sold for two years' arrears of taxes after due notice in the Alberta Gazette and advertisement in local newspapers. Time for redemption in this case is one year.

The town Act and the Rural Municipalities Act provide for forfeiture of land for unpaid taxes and give one year within which redemption may be made.

Testimony. Witnesses are examined viva voce in open court but the judge may order that any particular fact may be proved by affidavit or that affidavit of any person may be read at the trial, or he may order that any witnesses whose attendance in court for some reason ought to be dispensed with may be examined by interrogatories or before a commissioner or examiner. Any evidence taken in one cause may by leave of the judge be read in any other cause or matter. Copies of all writs, records, pleadings, documents, etc., filed in court are, when vertified by clerk, admissible in any cause or matter to the same extent as the original would be. The provisions of the Canada Evidence Act apply to all criminal proceedings and to all civil proceedings and other matters respecting which the Parliament of Canada has jurisdiction in this behalf. The Canada Evidence Act also applied to the taking of evidence relating to proceedings in Courts out of Canada. (See Rules of Court, 1914.)

Alberta Evidence Act, 1910. Canada Evidence Act.

Trust Deeds to Secure Debentures. Provisions as to registration the same as in the case of chattel mortgages, q. v., except that renewal is effected by filing with the registrar of companies the by-laws authorizing the issue of debentures or a copy thereof certified under the hand of the president, or vice-president, and the secretary and verified by an affidavit of the secretary, and a copy of the trust deed certified and verified as aforesaid

Wills. Any wills to be valid must be in writing, or typewritten, witnessed by two competent witnesses, and signed by the testator or by some person in his presence, and by his express direction. The two witnesses shall attest and subscribe in the presence of the testator and if the witnesses are competent at the time of attesting the execution of the will, their subsequent incompetency, from whatever cause it may arise, shall not prevent the probate and allowance of the will. No subscribing witness to any will or the wife or husband of such witness can derive any benefit therefrom. Wills are admitted to probate in the court of the proper (district) upon petition being filed after lapse of seven days from death of testator.

Workmen's Compensation. Anyone engaging employees on, in or about a railway, factory, mine, quarry or engineering work or in or about any building which exceeds thirty feet in height and is either being constructed or repaired or demolished by means of scaffolding or on which machinery driven by steam, water or other mechanical power is being used for the purposes of the work is liable for personal injury by accident arising out of and in the course of the employment.

Before proceedings can be taken notice in writing of the accident must be given as soon as practicable after the happening of the accident and before the workman has voluntarily left the employment in which he was injured, and the claim for compensation must be made within six months from the occurrence of the accident or in case of death within six months from the time of death.

SYNOPSIS OF

THE LAWS OF BRITISH COLUMBIA

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared by MATHESON & CARTER, Barristers, Vancouver.
(See Card in Attorneys' List.)

Acknowledgment of Deeds, Etc. (or proof by subscribing witness), for registry in British Columbia, if taken within the Province, may be before the registrar or deputy registrar of titles, a stipendiary magistrate or justice of the peace, a judge or registrar of a court having a seal, a commissioner for affidavits or a notary public. If taken or acknowledged without British dominions, may be before any British ambassador, chargè d'affaires, minister, consul, or consular agent appointed to reside in the country where the acknowledgment or proof is taken; any judge of any court of record having a seal, or any notary public practicing in such country, certified to be such by a British ambassador, chargè d'affaires, minister, consul, or consular agent, or by the governor or secretary of the State, province, or territory. The fact of the taking of such acknowledgment must appear by a certificate under the hand and official seal of the officer taking the same, endorsed upon or attached to the instrument. Such certificate must show that the person making the acknowledgment or proof (being either personally known to the officer or his identity proved by the oath or affirmation of a competent witness) has appeared before the officer (stating when) and acknowledged that he is the person mentioned in the instrument as the maker thereof, and whose name is subscribed as party thereto, that he knows the contents thereof and executed the same voluntarily, and that he is of the full age of twenty-one years. In the case of execution by a married woman, the certificate, in addition to the aforegoing must show that such married woman was first made acquainted with the contents of the instrument and the nature and effect thereof, and that she acknowledged, on examination apart from and out of the hearing of her husband, that she knows the contents and understands the nature and effect thereof; that she executed the same voluntarily, without fear or compulsion or undue influence of her husband, and that she is of full age and competent understanding and does not wish to retract the execution of such instrument. Deeds and instruments by cor-

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porations should be executed and acknowledged by the secretary; and the certificate of acknowledgment must state, in addition to such of the above matters as are applicable, that such secretary acknowledged that he is the person who subscribed his name and affixed the seal of the corporation, as the secretary, to such instrument, and that he was first duly authorized to subscribe and affix the said seal to the same and that the company is authorized to carry on business in the Province.

Actions are commenced by a writ of summons, and conducted, in the supreme court, under the judicature act and rules, and in the county courts under a system of practice closely analogous thereto. A defendant served with a supreme or county court summons in the province must enter an appearance within eight days, inclusive of the day of service. Where served out of the province (for which a judge's order must be had) the time limited for appearance is fixed by the judge, regard being had to the distance from British Columbia. Service beyond the jurisdiction may be also ordered in county court actions.

Administration of Estates of Deceased Persons. There are no separate courts of probate, but county courts have, within their respective districts, concurrent jurisdiction with the supreme court, to grant administration or otherwise act in probate matters, where the personal estate of the deceased does not exceed $2,500. In larger estates the supreme court has sole jurisdiction. Persons taking out administration must furnish security for the due performance of the trust by furnishing a bond with two sureties, in double the amount of the personal estate. Creditors rank equally upon estates of deceased persons (subject to any security they may hold), there being no priority of specialty debts over simple contract debts. Where a person dies intestate as to personal property, or having appointed an executor resident out of the province, administration may be granted to the official administrator. Claims against the estates of deceased persons should be presented to the executor or administrator, verified by affidavit or declaration made before a proper officer. (See Accounts, Affidavits.) The personal estate is primarily liable for the debts of the deceased, and must be exhausted before the real estate is available therefor. (See also Probate, Succession, Duties.)

Affidavits, Affirmations, and Declarations may be sworn or made abroad, for use in British Columbia, before a commissioner authorized to administer oaths in the supreme court of judicature in England; a judge of any of the superior courts of England, Ireland, or Scotland; a judge of any of the county courts of England or Ireland, within his county; a notary public, certified under his hand and official seal; the mayor or chief magistrate of any city, borough, or town corporate in Great Britain or Ireland, or in any British colony without Canada, or in any foreign country, certified under the common seal of such city, borough, or town corporate; a judge of any court of record or of supreme jurisdiction in any British colony or dependency without Canada, or in any foreign country; or before any British consul, vice-consul, or consular agent, exercising his functions in a foreign place. (See Evidence.)

Aliens have the same capacity as natural-born British subjects to take, hold, enjoy, recover, convey and transmit title to land and real estate of every description in British Columbia.

Arrest. In actions in the supreme or county court, the defendant may be arrested in the first instance on a writ of capias, where the claim is for debt or damages amounting to $100 or upward. Such writ issues on a judge's order, upon the plaintiff filing an affidavit showing a cause of action against the defendant to the amount of $100 or upward, or that he has sustained damages to that amount, and that there is probable cause for believing that the defendant is about to quit the Province unless forthwith apprehended.

Assignments for Benefit of Creditors. Preferential assignments are void. A deed executed by any person, conveying property to a trustee for the purpose of paying all the creditors of such person, ratably and without preference or priority, their just debts, shall be good and valid if its construction and effect accord with its expressed purpose; and after execution by the debtor shall not be set aside or defeated on any account except actual fraud. An assignment for the benefit of creditors binds all property of the debtor in the province, and takes priority over all judgments, attachments, and executions not completely satisfied by payment. Creditors must furnish particulars of their claims, proved by affidavit or declaration (See Affidavits, Accounts), stating what securities, if any, are held for their claims, together with such vouchers as the nature of the case admits of. Wages. All persons employed by the debtor at the time of, or within one month, before, the assignment are entitled to be paid three months' wages or salary in full (if owing) in priority to claims of general creditors, and may rank on the estate for any balance as ordinary creditors. Payments (excepting wages, rent, taxes or water rates) made by the debtor within ten days before the assignment, may be recovered back by the assignee.

Attachment. (See Courts, Garnishee.)

Banks and Banking are not within the jurisdiction of the provincial legislature, but are dealt with by the Canadian federal parliament, and the law is the same for all the provinces. (See Nova Scotia, same subject.)

Bills of Exchange and Promissory Notes. The law on this subject is governed by the Canadian federal parliament, and is the same for all the provinces. (Canada Bills of Exchange act, 1890.) Bills and notes are negotiable, and the general law is almost identical with that of England, and much the same as in most of the United States of America. Three days' grace are allowed on all bills and notes, except when payable on demand.

Bills of Sale and Chattel Mortgages. Every bill of sale, whether absolute or conditional and every schedule or inventory annexed, and every attestation of the execution, together with an affidavit of the time of such bill of sale being made or given and a description of the residence and occupation of the person making or giving the same (or the person against whom process shall have issued if given under execution of process), shall be registered in the office of the county court registrar of the district wherein the goods affected are situate; where the goods are situate in the same town or place as the county court registry, the bill of sale must be registered within five days after execution; in other cases, within twenty-one days. The time for registration may be extended by a judge on good cause being shown. An affidavit of the transferee or mortgagee in the statutory form, must also be filed at the same time, stating that the instrument is given and taken bona fide, non-compliance with these requirements renders the bill of sale void as against creditors, sheriff's officers, or subsequent purchasers or mortgagees in good faith. The holder of a registered bill of sale or chattel mortgage must, within fifteen days after service of demand by a creditor, furnish such creditor with a sworn statement showing the state of accounts secured by the bill of sale or mortgage, otherwise the bill of sale or mortgage is void as against such creditor.

Bulk Sales. (See Sale of Goods in Bulk.)

Chattel (and other) Mortgages given by incorporated companies must be registered with the Registrar of Joint Stock Companies at Victoria, within twenty-one days after execution.

Companies may be incorporated by special act of the legislature, or (except railway and insurance companies) under the general "companies act, 1897," in the latter case by the execution (by not less than five persons) and filing of a memorandum of association, according to the requirements of the act. Extra-provincial companies incorporated in Great Britain and Ireland, or in any province of Canada, may be licensed to do business in British Columbia. Extra-provincial companies incorporated elsewhere than as above mentioned, before doing business in British Columbia, must be registered. Extra-provincial companies can only be licensed or registered in the province where by their charter they have authority to carry on business in British Columbia. Where this is lacking the best course is to be reincorporated in this province, the cost being the same as above stated. Extra-provincial companies registered or licensed in British Columbia have the same privileges and are subject to the same liabilities as if incorporated in the Province. Any extra-provincial company carrying on business in British Columbia without having been licensed or registered is liable to a penalty of $50 per day for the time during which business is so carried on, and is incapable of enforcing any contract relating to such business.

Mining Companies (no others), whether incorporated, licensed, or registered, may entitle themselves to issue their shares below par, as "fully paid up and non-assessable," and holders of such shares are not liable for assessments beyond the amount actually paid thereon. Companies may be wound up under the Canadian Federal Winding-up act (Revised Statutes of Canada, 1886, Ch. 129), or under the British Columbia "Companies Winding-up Act."

Deeds given by Companies. (See Acknowledgments; see also Powers of Attorney.)

Conditional Sales of Goods. Receipt notes, lien orders, or hire receipts must be filed within twenty-one days in the office of the county court registrar of the district in which the goods are situate, otherwise they are void as against subsequent purchasers or mortgagees. A copy of the receipt-rate, lien order or hire-receipt must also be left with the vendee. Goods held under a conditional sale agreement are subject to distress for rent due by the purchaser, to the extent only of the interest of such purchaser in the goods.

Contracts. (See Frauds, Statute of.)

Conveyances. (See Acknowledgments, Deeds.)

Corporations. (See Companies.)

Costs, Security for, must be given in supreme and county court actions, if demanded, where the plaintiff resides outside British Columbia, or is an extra-provincial corporation, unless the plaintiff is the owner of real estate in the province. (See Companies.) The amount is fixed by a judge in each case, but $150 is the least amount usually ordered in supreme court actions, and $25 to $50 in the county court.

Courts and Their Jurisdictions. Small debts courts (presided over by police and stipendiary magistrates) have jurisdiction within their districts, concurrently with the county courts and supreme court, in actions of debt, where the demand does not exceed $100, but have no jurisdiction in tort nor where the title to land comes in question. County courts have jurisdiction, concurrently with the supreme court, in personal actions for debt or damages, up to $1,000; in ejectment where the value of the premises does not exceed $2,500; in replevin where the goods do not exceed $1,000 in value; equitable jurisdiction (including trusts, foreclosure, specific performance, injunctions, accounts, etc.) up to $2,500; jurisdiction in probate matters where the personal estate does not exceed $2,500. In the county court, as in the supreme court, execution may issue only against goods, but the judge may order defendant's lands to be sold where judgment is over $100. (See Execution.) An appeal lies, with or without special leave according to the nature of the judgment, to the court of appeal, from any judgment or order of a county court, whether interlocutory or final. The supreme court has jurisdiction over all actions civil and criminal, arising in the province, and is vested with all the powers of the courts of common law, chancery, and probate. An appeal lies to the court of appeal from any order or judgment of a judge. An appeal lies from the judgment of the court of appeal to the supreme court of Canada, at Ottawa, and to the judicial committee of the privy council, England. (See also Actions, Arrest, Costs, Evidence, Execution, Garnishee, Judgments, Probate, Replevin.)

Deeds, Mortgages, and Registration. Deeds, mortgages, and other transfers and charges affecting lands need not necessarily be under seal, except in the case of bodies corporate, but it is advisable to so have them. They must be registered in the registry office of the district wherein the lands to be affected lie, in order to be valid and mortgages executed by incorporated companies must also be registered with the Registrar of Joint Stock Companies within twenty-one days after execution. Priority of registration creates priority of title, and purchasers, for valuable consideration, of registered real estate or registered interest therein are not affected by notice, express, or implied, of any prior unregistered title affecting the same, save only leasehold interests in possession for a term not exceeding three years. Want of consideration alone will not invalidate a registered voluntary conveyance executed in good faith. A will cannot be registered until probate thereof has been granted. The execution of instruments requiring to be registered must be first proved or acknowledged before the proper officer. (See Acknowledgments.)

Descent of Real Property. The real property of a person dying intestate descends directly to the heirs, and is only made available for creditors of the deceased by special application to the court. Undevised real estate is subject to the widow's dower. (See Dower.)

Dower. The widow of a deceased person is entitled to dower out of any land which he shall not have absolutely disposed of in his lifetime, or by will. Unless a contrary intention appears by the will a devise to the wife of any land which would ordinarily be subject to dower bars her right to dower out of all lands of the deceased. Dower is subject to any conditions or restrictions declared by the will. A bequest of personal estate does not bar dower unless a contrary intention is declared, and a legacy bequeathed to the wife in lieu of dower takes priority over other legacies. Land may be absolutely disposed of and the wife's right to dower barred by the husband, by deed, without the wife joining in the execution. Not more than six years arrears of dower may be recovered.

Execution. In the supreme or county court, where judgment is for non-payment of a sum of money or costs, or for the recovery of land, execution against goods, or for delivery of possession of the land, as the case may be, may issue forthwith. On judgments of a different nature than above specified, unless otherwise ordered, fourteen days must elapse before execution. There is no execution against lands, but where a judgment has been recovered exceeding $100, the judgment may be registered against lands of the defendant, and a judge may order the same sold by the sheriff to satisfy the judgment. Judgments registered against lands affect the lands from time of the registration of the judgment, and bind the same for two years; they may be renewed for a further period of two years, and so from time to time. (See Judgment.) An execution binds goods from the time of actual seizure thereunder.

Executors and Administrators. (See Administration, Probate, Succession Duties.)

Exemptions. The goods and chattels of any debtor, at his option, to the value of $500, are exempt from forced seizure or sale by any process of law or equity (save distress for rent or taxes). This does not extend to goods taken in satisfaction of a debt contracted for or in respect of such identical goods, nor to the stock in trade of a trader. Lands, duly registered as a homestead, are exempt to the value of $2,500. (See Homesteads, Garnishee.)

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Frauds, Statute of. Leases, or estates in land, not in writing and signed by the party creating the same, have the force of estates at will only, except leases not exceeding three years. The following must also be in writing: Promise by an executor or administrator to answer damages out of his own estate; promise to answer for the debt, default or miscarriage of another person; agreement made upon consideration of marriage or upon any contract or sale of lands or of any interest therein; agreement which is not to be performed within one year; declaration or assignment of trust; acknowledgment of debt, to bar the operation of the statute of limitations (except where such acknowledgment takes the form of a payment on account of principal or interest); ratification or promise made after full age to pay a debt contracted during infancy; representation or assurance concerning the character, credit, ability, etc. of another person, in order that such person may obtain credit. No contract for the sale of goods valued at $50 or upwards is binding, unless the buyer accept and actually receive part of the goods sold, or give something in earnest to bind the bargain or in part payment, sign a memorandum of the sale.

Garnishee. In ll courts of the province, debts owing to the judgment debtor may be attached by the judgment creditor, upon an ex parte application supported by affidavit showing that judgment has been recovered and is still unsatisfied, and to what amount, or that an action is pending, verifying the debt, and stating that any other person is indebted to the judgment debtor, and is within the jurisdiction of the court. Debts due to defendant may be thus attached before judgment, as well as after. In small debts courts, wages due defendant are exempt from garnishee up to $40, where defendant is married or the mainstay of others, and $20 in other cases, except where the plaintiff's claim is for board or lodging. In the county court a similar exemption may be allowed by the judge, not exceeding $40.

Homesteads. Lands may be registered as a homestead, up to the value of $2,500, upon the owner filing in the registry office a notice thereof and a declaration disclosing assets equal to that amount, or to the value of the homestead, where it is worth less than $2,500.

Insolvency. There is, at present, no general insolvency or bankruptcy law in force in the provinces of Canada. (See Assignments.)

Interest. The legal rate of interest is 5 per cent, where no other rate is stipulated, but any rate may be agreed upon between the parties there being no usury law at present in force in Canada; banks, however, cannot lawfully recover more than 7 per cent on loans and money lenders are prohibited from charging more than twelve per cent on loans of less than $500. Unpaid bills of exchange and promissory notes bear interest at 5 per cent from maturity, whether so expressed or not.

Judgments of the supreme and county courts are valid for twenty years. They bind lands and interests therein of every description for two years from the time of registry thereof in the land registry office of the district wherein the lands lie, and affect lands acquired by the judgment debtor after, as well as before, registration of the judgment. Judgments must be registered before lands can be sold thereunder. (See Execution.) Registration may be renewed from time to time for a further period of two years. Foreign Judgments: Judgments recovered in any court outside of British Columbia are foreign judgments, and this includes judgments of courts of the other provinces of Canada. A final judgment of a foreign court having jurisdiction over the parties and subject matter of the suit is conclusive between the parties, on the merits; and in an action brought in British Columbia upon such a judgment no defence can be given which might have been given in the original action, if the defendant was served with or had notice of the process in such original action, and an opportunity to answer it. Suit can be brought in British Columbia upon a foreign judgment within the time limited for actions upon judgments by the laws of such country.

Leases must be in writing, and signed by the lessor, except leases for terms not exceeding three years. They need not be under seal, except in the case of incorporated companies, but it is advisable to so have them, as consideration is then presumed. Leases for three years or more should be registered, and must be first proved or acknowledged. (See Acknowledgments, Land Registry.)

Liens, Mechanics'. Unless otherwise agreed in writing, every contractor, sub-contractor, and laborer doing or causing work to the amount of $20 or upwards, to be done upon any building, wharf, bridge, mine or other work, and any person furnishing materials to be used in the construction or alteration of such building, etc., has a lien thereon and on machinery and fixtures therein, and on the materials furnished therefor, and the lands and premises occupied thereby, for the price of such work or materials. The lien must be registered within thirty-one days after the work is completed, or the claimant has ceased to work thereon (except in the case of miners, who are allowed sixty days), and an action in the county court to enforce the same must be begun and a lis pendens filed, within thirty-one days after registration of the lien. Persons claiming liens for materials must give notice of their claim before delivery or within ten days after delivery.

Liens of Woodmen. Any person performing labor or services in connection with any logs or timber in the Province, has a lien thereon, and on the lumber manufactured therefrom, for the amount due him, taking precedence over all charges except government tolls thereon. The lien must be filed within thirty days after the last day of such labor or services, and proceedings to enforce the same taken in the supreme or county court (according to their respective jurisdictions) within thirty days after filing the lien.

Limitations of Actions. Actions upon simple contracts notes bills, accounts, libel, trespass to lands, detinue, replevin, and for seamen's wages, must be brought within six years; for assault, battery, wounding, or false imprisonment, within four years; and for slander and penalties fixed by statute, within two years from the time the cause of action respectively arose. Actions upon judgments, bonds, mortgages, or instruments under seal, or to recover lands must be brought within twenty years. Where the plaintiff is under any disability, such as infancy, coverture or lunacy, or the defendant is beyond seas, the limitation does not begin to run until the removal of the disability. Acknowledgments to bar the statute of limitations must be in writing. Foreign Limitations. An action cannot be maintained in British Columbia, on a cause of action arising beyond the Province, where it is barred by any statute of limitations of the country in which it arose.

Married Women, Property and Status of. A married woman may acquire, hold, and dispose, by will or otherwise, of any property, real or personal, as her separate property, in the same manner as if she were a femme sole, independently of her husband, and without the intervention of a trustee. She may contract in respect to her separate property, and sue and be sued without joining her husband, either in contract, tort, or otherwise; any damages or costs recovered by her are her separate property and if recovered against her are payable out of her separate property. Husband and wife may sue each other, except in tort, and give evidence against each other.

Mining Laws. Mineral Quartz Mines. Every person or corporation, before engaging in prospecting or mining for any minerals or ore, other than coal, must take out a free miner's certificate, and the same must be constantly kept in force thereafter or all rights (short of a Crown grant) will be forfeited. Certificates may be taken out by individuals for one or more years, on payment of the fee therefor, but certificates of joint stock companies can only be taken out or renewed for one year at a time. All certificates expire May 31st in each year The foundation of the right of a free miner to enter and mine is the fact that the right to the minerals does not ordinarily pass by the grant, but is reserved to the crown and its licenses; and such right to minerals found in lands of other persons exists only where they have been so reserved. A full size mineral quartz claim is 1,500 by 1,500 feet, but fractional claims may be located. All transfers of mining property or interests must be in writing and duly recorded. Mining partnerships may locate a claim for each partner, and each partner must hold a free miner's certificate. Placer mining claims are 100 feet long, varying in breadth according to whether "creek," "bar," "bench," "dry," or "hill" claims. The statutory requirements as to location and record must be strictly observed. Coal Mining. A license may be obtained for one year (renewable for further terms of one year as long as prospecting is actually carried on) to prospect for coal or petroleum over a tract of land not exceeding 640 acres, after performance of the statutory requirements as to location posts, publication of notice, etc., a fee of $100 per year. If coal is discovered the licensee may obtain a lease for five years. At the expiration of the term, if mining has been continuously carried on, a Crown grant of the lands may be obtained at $5 per acre. All coal raised, whether under lease or grant, is subject to a royalty to the crown of 5 cents per ton, petroleum 1 cent per barrel. Mines are subject to government inspection and regulation.

Partnerships are either general or limited, the latter consisting of one or more general partners associated with one or more special or silent partners, who contribute to the firm capital. General partners are each liable for all the partnership debts; special partners are not liable beyond the amount contributed by them to the capital, but are not allowed to transact business and sign for the partnership, or bind the same in any way, though they may examine the state and progress of the partnership concerns and advise as to the management. Special partners interfering further than this thereby become general partners, and are liable accordingly. Persons forming limited partnerships for trading, mining, or manufacturing business, within the Province, must register a certificate and publish notice thereof, and any renewal, change in members or objects, or dissolution must be similarly registered and published, otherwise the partnership is treated as a general one. General partnerships must also be registered and a certificate filed on their formation, dissolution, or any change in firm name or membership, or removal of any member from the province, otherwise a penalty is recoverable against the parties.

Probate. (See Administration, Courts, Deceased Persons, Descent, Succession, Duties, Wills.)

Promissory Notes. (See Bills of Exchange.)

Redemption. Mortgaged property may be redeemed up to time of actual sale, under power of sale or decree of court, upon payment of all arrears of principal and interest, together with costs of proceedings. Lands, sold for taxes may be redeemed within one year, if within incorporated municipalities, and two years in unincorporated communities, upon payment of arrears, interest, and costs.

Replevin. When goods, chattels, papers, or any other personal effects have been unlawfully distrained, taken or retained, the person complaining thereof may bring an action of replevin to determine the rights, and have the property restored to him under a writ of replevin, pending the result of the action. Before obtaining the writ, or a return of the property thereunder, he must furnish a bond to the sheriff, in double the value of the property, conditioned to prosecute the action with the effect and without delay, and to return the property, if so adjudged. The sheriff then replevies or seizes the property, and restores it to the complainant, pending the result of the action, which is carried on in the same manner as other actions.

Sale of Goods in Bulk. Purchasers of stocks-in-trade of goods in bulk must, before making any payment or giving any promissory note, etc., on account, obtain from the vendor an affidavit showing the names and addresses of the vendor's creditors in respect of the goods, with amounts of their claims, or else a written waiver of such requirement, signed by the creditors; otherwise the sale is void as against such creditors.

Succession Duties on Estates of Deceased Persons are not charged on estates of less net value (after payment of all debts) than $5,000, nor on estates of less value than $25,000, where the property passes to the father, mother, husband, wife, child, grandchild, daughter in-law, or son-in-law of the deceased. Save, as above mentioned, duty is charged ranging from 1 per cent to 10 per cent, depending on the value of the estate and the degree of relationship of the inheritors.

Taxes are levied by the provincial government, and also by the various cities, towns, and district municipalities within their respective limits.

Provincial. An annual poll-tax of $3 is levied on male persons over eighteen years of age. All lands, improvements on lands, personal property and income in the province (except land and improvements in municipalities, which are taxed by the municipality) are subject to provincial taxation, with certain exemptions.

Municipal Taxes. Cities and other municipalities levy taxes on land and improvements thereon, and by way of business licenses and road tax. Land is assessed at its actual cash value and improvements at 50 per cent of the value, but municipalities may exempt improvements in whole or in part, and, in Vancouver, they have been wholly exempt from taxation for several years. Municipal taxes on land and improvements are subject to a rebats of 1–6, if paid before December 1st. Commercial travelers for firms not having a permanent place of business in the municipality and selling goods at retail are subject to a business license tax in municipalities, the amount of which is fixed by the respective municipalities, but may not exceed $50 for six months. Real estate sold for taxes may be redeemed within one year in municipalities, and two years elsewhere, on payment of the amount paid therefor by the purchaser at such sale, with interest. Taxes constitute a lien on property, prior to all other liens, save that of the Crown (if any).

Transfer of Corporation Stock must be effected in the manner fixed by the by-laws of the corporation.

Wages. (See Assignments, Executions, Infants, Liens.)

Wills must be in writing, and signed at the foot by the testator, or by some other person in his presence and by his direction; and such signature must be made and acknowledged by the testator in the presence of two or more witnesses, present at the same time, who shall attest and subscribe in the presence of the testator. No form of attestion is necessary. Any property or interest in property may be disposed of by will, and a will speaks from the time of the testator's death, not from its execution. Infants cannot make a valid will. A gift to an attesting witness is void, but does not otherwise affect the will, or the competency of such witness to prove the execution. An executor may be a witness. A will is revoked: By marriage (except where made in exercise of a power of appointment; by a subsequent will or codicil, or some writing declaring an intention to revoke the same, and executed in the manner required for a will, or by the destruction of the will. Where real estate is devised without any words of limitation, such devise will pass the fee simple or other the whole estate of the testator therein, unless a contrary intention appear. Gifts to children or other issue, who have died leaving issue at the testator's death, do not lapse, but descend to such issue. A will must be duly proved in a court having jurisdiction in probate before it can be registered.

Woodman's Lien. (See Liens.)

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SYNOPSIS OF

THE LAWS OF MANITOBA

RELATING TO

BANKING AND COMMERCIAL USAGES

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Acknowledgments. (See Deeds.)

Actions. In the county court a defendant served within the Province with a writ for a liquidated claim or debt must within ten days from service upon him file a dispute note, otherwise judgment by default may be signed against him and execution may be issued against his goods six days after judgment. In the king's bench the defendant has sixteen days to file his defense if served within the Province, four weeks if served in any other Province or in the United States, eight weeks if within the United Kingdom or Newfoundland, and twelve weeks if within any other country, otherwise judgment may be signed and execution issued immediately, provided the plaintiff's claim is a liquidated one. If the defendant enters a defense to such a claim, a plaintiff may apply for leave to sign final judgment after filing an affidavit made by himself or any other person who can swear positively to the cause of action, and stating that in his belief there is no defense to the action. Every debt or chose-in-action rising out of a contract is assignable at law by any form of writing.

Administration of Estates. (See Probate.)

Affidavits. For use in provincial courts affidavits and declarations may be made in the province before any notary public or commissioner for taking affidavits for use in any of the courts or before any judge, clerk of any county court, registrar, district registrar or his deputy. A statutory declaration may be made attesting the writing of any instrument or the truth of any fact or account if made in Canada, otherwise an affidavit must be used. Affidavits, declarations, etc., made out of Manitoba for use here may be made before: 1. Any commissioner for oaths appointed by the Lord Chancellor under Sec. 1 of "The commissioners for Oaths Act, 1889," or any amendment thereto. 2. Any notary public certified under his official seal. 3. The mayor or chief magistrate of any city, borough, or town corporate in Great Britain or Ireland, or in any of His Majesty's dominions within Canada, or in any foreign country certified under the corporate seal. 4. A judge of any court or superior jurisdiction in His Majesty's dominions without Manitoba with the seal of the court affixed. 5. A consular agent of His Majesty exercising his functions in any foreign place. 6. Any commissioner for taking affidavits for use in this Province.

Aliens. Real and personal property of every description may be taken, acquired, held and disposed of as if a natural born British subject, and title to real and personal property may be derived from or in succession to an alien.

Arrest. No one can lawfully be arrested or held to bail for debt or non-payment of money.

Assignment and Insolvency. There is no bankruptcy or insolvency law in force in this Province; but debtors may make assignments under the assignment act in trust for the general benefit of their creditors. Such assignments take precedence of all attachments, judgments, registered certificates of judgment, and of all executions not completely executed by payment, subject to the lien, if any, of execution creditors for their costs. Notice of an assignment must be published in the Manitoba Gazette and at east twice in a local newspaper. The assignee must, within five days from the date of assignment, convene a meeting of all creditors, as shown by reference to the debtor's books, for the appointment of inspectors and the giving of directions with reference to the disposal of the estate. He must also call a meeting to be held within twelve days after receiving a request for the same from a majority of the creditors. The creditors' claim must be proven by affidavit within a limited time. All questions discussed at meetings of creditors are decided by the majority of votes and for such purpose the votes of creditors shall be calculated as follows: Every claim of over $100 and under $200, one vote; every claim of over $200 and under $500, two votes; every claim of over $500 and under $1,000, three votes; for every additional $1,000 or fraction thereof, one vote. At any meeting the creditors may vote in person or by proxy authorized in writing. Workmen's wages, not exceeding three month's salary, are to be paid in priority to claims of ordinary creditors. The assignee is to pay a dividend within six months of the date of the assignment and thereafter every six months until the estate is wound up. Inspectors may require assignee to pay dividends more frequently. Each creditor is entitled to a copy of dividend sheet as soon as same is prepared. The accounts of the assignee are, at all times, to be accessible to creditors.

Attachments. An order for attachment may be obtained in an action commenced by statement of claim, against any benefit, estate or interest in any real or personal property not exempt from seizure under execution or from liability to answer a judgment upon such cause of action in the following cases: 1. When any debtor or other person, being an inhabitant of Manitoba, shall depart therefrom with intent to defraud his creditors or to avoid arrest or service of process, or shall conceal himself therein with like intent. 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 said 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, may be had at the commencement of or at any time during the pendency of suit, or after judgment. A judgment requiring a person to do or abstain from doing anything except the payment of money may be enforced by mandamus.

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. Minors are persons under the age of 21 years. 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 three years 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 or upward shall be good unless the buyer shall 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 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, if attacked within sixty days, or if assignment is made for the benefit of creditors within sixty days, are presumed prima facie to have been made with fraudulent intent, notwithstanding pressure.

Corporations are created by act of parliament or under the general acts relating to the incorporation of joint stock companies by letters patent, or under the "Manitoba Joint Stock Companies Act." Shareholders are limited in liability to the amount of their shares subscribed, and when paid in full they are discharged from any further liability. On application of one-fifth in value of the shareholders a judge may appoint an inspector to investigate the affairs and management of the company and to report to the judge thereon. Insolvent companies are wound up and assets distributed under the provisions of the Winding-Up Act, by the court of king's bench. In the case of incorporated banks, shareholders are liable for double the amount of the stock. 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, and may then hold lands. Corporations doing business in the Province have to pay a tax as provided in the corporations taxaction act, and must have an agent within the Province authorized under power of attorney to act in all legal proceedings on behalf of the corporation.

Courts. The court of king's bench is the supreme court of Manitoba, and has an original jurisdiction both at law and in equity. A court of appeal has recently been constituted to dispose of appeals from the court of king's bench and other courts in the Province. Its judges are ex-officio judges of the court of king's bench. There are four terms a year for the hearing of appeals from a single judge. County courts have jurisdiction up to $500.00 in contract and $500.00 in tort, except claims in the nature of seduction, breach of promise of marriage, and a few others which are confined exclusively to the king's bench. An appeal lies from the county court fo a single judge of the court of appeal, when the amount in dispute is not less than $20 and not more than $50; and to the full court of appeal when the amount in question exceeds the sum of $50.

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 king's bench, the registrar or deputy registrar of the district 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 his majesty resident therein, or a judge of a court of record or a notary public, certified under his official seal. No witness or affidavit is necessary in cases of execution by a body corporate, provided the corporate seal is affixed to the instrument and same signed by two of the principal officers. 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 life-time of the husband. The Torrens System of land transfers has 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.

Depositions. The court or a judge may at any time order a commission to issue for the examination of witnesses (under oath) who are outside the jurisdiction of the court, by interrogatories or otherwise. In case of a commission from a competent foreign court to take evidence, or examination in discovery of persons resident in Manitoba, for use in suits outside the Province for the court of king's bench may order the attendance of witnesses, production of documents, and give directions in accordance with the tenor of commission.

Distribution of Intestate's Property. If an intestate die leaving a widow and child, or children, one-third of his real and personal estate goes to his widow, and two-thirds to his child or children in equal shares and in case of decease of his children to such as lawfully represent them. There is no distinction between males and females, or between children of half-blood or whole-blood, and posthumous children share equally with children born during the lifetime of the intestate. If no issue, the whole estate, real and personal, goes to the widow. If issue and no widow, the whole to the issue. If no widow or issue, to his father; if no widow, issue, or father to his mother, brothers and sisters, in equal shares; if no widow, issue, father, brothers, or sisters to his mother; if no widow, issue, father or mother, to his brothers and sisters in equal shares; or if any of his brothers or sisters be dead their children take the parent's share; all these failing to his next of kin, but in no case are representatives admitted among collaterals after brothers' or sisters' children. The separate property of a married woman dying intestate is to be distributed in the same manner as the property of a husband dying intestate. Real estate vests in the personal representatives since July 1, 1885, in the same manner as personal estate.

Executions issue from the king's bench in all cases as of course against the goods of the judgment debtor at any time within six years from the date of recovery of judgment, 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, and must be renewed every two years. 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 twelve months, and bind goods only, but may be renewed and may be exchanged for a king's bench execution after being returned as uncollectable by the county court bailiff. All executions in the hands of the sheriff at the date of seizure, or which are received by him within three months after such seizure, share ratably in the distribution of the amount realized. All shares and dividends of stockholders in any incorporated bank or other company in Manitoba having transferable joint stock and the interest of a mortgagee in any property mortgaged to him may be attached, seized and sold.

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

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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. 4. The necessary food, if in possession of the debtor at the time of seizure, for himself and family for eleven months. 5. Three horses, mules, or oxen, six cows, ten sheep, ten pigs, fifty fowls, and feed for the same during eleven months. The exemption as to horses over the age of four years shall apply only in case they are used by the judgment 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 houses, stables, barns, and fences on debtor's farm, subject as aforesaid. 10. All necessary seeds or roots for the cultivation of eighty 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. Any agreement by debtor to abandon or waive exemption is null and void. Partnership firm can claim only one exemption. Remedy against real property is now more generally by registered judgments, under which no proceedings may be taken against 8, 9, 11, so long as the land is affected by the conditions recited.

Garnishment. All debts, obligations, and liabilities due, owing, or accruing due to a debtor may be attached to answer the claim of his creditor. Debts may be garnished both before and after judgment. In the court of king's bench a garnishing order can not be obtained until an action has been commenced; in the county court the garnishee proceedings and the action may be commenced together. Any debts due to a mechanic, laborer, servant, clerk or employee for wages or salary shall be exempt to the extent of $25 per month, or if less than one month be due, at the rate of $25 a month. Garnishee must reside within this Province.

Interest. The legal rate is 5 per cent. Parties may contract for any rate, except banks, which are prohibited from charging more than 12 per cent. Money lenders cannot contract for a higher rate of interest than 12 per cent. Interest is computed on judgments from date of entry at 5 per cent per annum. Rests not allowed unless there is a contract in writing. Accounts bear interest at legal rate from date of demand of interest or notice that it will be charged.

Judgments remain in force ten years. 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. No action or suit can be brought upon a judgment recovered upon a judgment. (See Executions.)

Liens. Parties erecting or repairing building or furnishing material for building have a lien on such land and building to the value of their work, provided a statement of the claim, verified by affidavit, is filed in local registry office within thirty days of completion or of furnishing of material. Proceedings must be taken in the county court up to $500 or in king's bench over this amount to enforce lien within ninety days from completion of work, otherwise lien lapses. Proceedings are governed by the mechanics' and wage earners' liens act, which is practically the same as in Ontario.

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 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 king's bench: there is no redemption after final order for foreclosure or sale. Chattel mortgages and bills of sale must be filed within twenty days from the date thereof, with the clerk of the county court of the judicial division within which the goods are situate, before they have any effect as against execution creditors, or purchasers for value without notice, or subsequent chattel mortgages. They require to be renewed within thirty days before 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 so renewed, they are absolutely void as against the creditors of the mortgagor. Chattel mortgages, etc., on rolling stock, etc., of railroads are registered only in office of provincial secretary.

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, Arbor Day, 24th May, 1st July, Labor Day, the King's birthday, 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.

Probate Law. The Province has four surrogate courts: of the eastern judicial district, of the central judicial district, of the western judicial district, and of southern Manitoba. The seats of the courts are Winnipeg, Portage la Prairie, Brandon, and Morden, respectively. Grants of probate made in any other province in Canada, the United Kingdom or any British province may be re-sealed in this Province by producing the grant of probate or administration, or exemplification thereof, purporting to be under the seal of the court by which the same has been granted, and the necessary affidavits. If probate or administration has been granted in any other country than Canada, the United Kingdom or a British province, ancillary probate or administration must be taken out. Ancillary probate or administration may be obtained by producing the foreign probate or administration or exemplification thereof (a certified or notarial copy is not sufficient), purporting to be under the seal of the court by which the same has been granted, and the necessary affidavits. Executors are not required to give security, but an administrator must furnish, usually, two securities, each in double the value of the estate. Where an applicant can not find sureties he may apply to have the official administrator or a trust company, such as National Trust Company, Limited, appointed.

Sale of Merchandise in Bulk. The Bulk Sales Act, Chapter 23 Revised Statutes of Manitoba, 1913 prohibits the sale of goods, wares or merchandise in bulk for cash or on credit unless 60 per cent in number and in amount of the creditors of the vendor consent to the same in writing. Any sale made without such consent is under this Act fraudulent and void against the creditors of the vendor.

There is, however, a provision that in the event of the written consent not being obtained, the purchaser can pay the money over the Official Assignee or to a Trust Company for distribution pro rata amongst the creditors of the vendor. The Act applies to sales by traders and merchants, but these classes are given a very wide interpretation by the Act and include commission merchants and manufacturers.

Suits. (See Actions, Courts.) There are two superior courts, the court of appeal and the court of king's bench, which have 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, including power to grant injunctions. All suits must be commenced by statement of claim entitled in and under the seal of the court from which issued, and such statement must be served on defendants within six months from date. Provision is made for substitutional service of process by publication or otherwise.

Taxes. Lands may be sold for taxes, when in arrears for two years, or upward, by the treasurer of the municipality within which the lands lie, and may be redeemed at any time within two years from date of sales upon payment of the sum paid by purchaser, with 10 per cent interest if redeemed within one year, or 20 per cent interest if redeemed within two years from date of sale. If not so redeemed purchaser may within one year from the explry of the said two years apply to the land titles office for absolute title, but owner has a further six months from date of service of notice of such application upon him to redeem through the district registrar.

Trust Companies. These may do business in Manitoba subject to certain restrictions and supervision by the government. They are much favored on that account where the courts desire to safeguard the interests of estates, and recourse is now generally had to them in all cases where their services can be availed of. Companies now doing business as such in Manitoba are the National, the Royal, the Toronto General, the Standard, the Northern.

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 must be in writing, and every will other than a holograph will must be executed and attested as follows: 1. It must be subscribed at the end thereof by the testator or by some person in his presence and by his direction. 2. The subscription must be made or acknowledged by the testator in the presence of two attesting witnesses present at the same time. 3. 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.

SYNOPSIS OF

THE LAWS OF NEW BRUNSWICK

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by M. & J. TEED, Barristers, St. John, N. B.
(See Card in Attorneys' List.)

Acknowledgments. Before the registry of any deed, conveyance, mortgage, certificate of discharge of mortgage, assurance, lease, or power of attorney, or other instrument affecting any interest in or title to land, the execution of the same shall either be acknowledged by the person executing the same or be proved by the oath of a subscribing witness. If such acknowledgment is to be taken or made out of the Province, it may be taken or made before. Any notary public certified under his hand and official seal; the mayor or chief magistrate of any city, borough, municipality or town corporate, certified under the common or corporate seal of such city, borough, municipality or town corporate, or the seal of such mayor or chief magistrate; any judge of the high court of Great Britain or Ireland; any judge or lord of session in Scotland; any judge of a court of supreme jurisdiction in any British colony or dependency; any British minister, ambassador, consul, vice-consul, acting-consul, pro-consul or consular agent of His Majesty, exercising functions in any foreign place; the governor of any state; the handwriting and certificate of any such judge or lord of session being authenticated under the seal of a notary public, and the taking of any such acknowledgment before such minister, ambassador, consul, vice-consul, acting-consul, pro-consul, consular agent or governor being certified respectively under his hand and seal of office. If the proof of the execution of such instrument be taken out of the Province the same shall be taken before any commissioner for taking affidavits and administering oaths under chapter 36 of the consolidated statutes; any notary public, certified under his hand and official seal; the mayor or chief magistrate of any city, borough, municipality, or town corporate, under the seal of such mayor or chief magistrate; any judge of the high court of justice of Great Britain or Ireland; any judge or lord of session in Scotland; any judge of a court of supreme jurisdiction in any British colony or dependency; the handwriting of any such judge or lord of session being authenticated under the seal of a notary public; any British minister, ambassador, consul, vice-consul, acting-consul, pro-consul, or consular agent of His Majesty exercising his functions in any foreign place; the governor of the state; such proof being certified under the hand and seal of office of such minister, and ambassador, consul, vice-consul, acting-consul, pro-consul, consular agent, or governor.

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Administration of Estates. In case of any deceased person being at the time of his death an inhabitant of any county in the Province or not being an inhabitant of the Province leaving assets in any county thereof, the judge of probates of such county may take probate or grant administration and shall in either case have exclusive jurisdiction over all the estate of such deceased person in the Province. Letters testamentary or of administration are granted on application to the judge by petition of the party entitled by law or one or more of the creditors of the deceased. Probate or administration will not be granted (except it be made to appear that the estate is being wasted, or for other good reason) until after the lapse of fourteen days after the death of deceased. Caveats must declare the interest of the caveator and give his address, or the address of his attorney. Before administration is granted a bond is taken from the applicants with two sureties to the satisfaction of the judge, the penalty of the bond being double the value of the personal estate. An administrator may, instead of obtaining two sureties, give bond of a guarantee company licensed to do business in the Province. Unless further time is allowed by the judge it is necessary to file an inventory of the estate within three months, and an account of the administration must be rendered within eighteen months. Where the witnesses to a will reside out of the Province a commission may be had to take their testimony. If the personal estate is insufficient to pay the debts of the deceased the executor may within ten years from his appointment, or a creditor after one year and before expiration of the ten years obtain a license or order from the judge for the sale of the real estate or any part thereof. Where an infant's estate does not exceed $5,000, the judge of the probate may appoint a guardian for the person and estate of the infant. Claims against an estate for debts due by the deceased must be certified by affidavit, and filed with the executor or administrator, and no debt shall be paid or action brought therefor until this has been done. (See Succession Duty.)

Affidavits. Affidavits sworn out of the Province before any person appointed commissioner for taking affidavits in and for the courts in the Province of New Brunswick or before any of the several officials and persons authorized to take acknowledgments out of the Province (see Acknowledgments) are valid in all matters in which they would be valid if sworn before a competent official within the Province.

Aliens. Real and personal property of any description, except British ships, may be held and transmitted by aliens as by subjects. May be naturalized after residence of three years.

Arrest. In the supreme and county courts. Any person not having privilege may be arrested and held to bail or committed to prison on mesne process in any cause of action within the jurisdiction of the supreme or county courts. Where the cause of action is a debt certain an affidavit must first be made of the debt and that the arrest is not made for the purpose of vexing and harassing the debtor, or if for other than a debt certain a judge's order must be obtained on an affidavit setting out the cause of action. Where the affidavit is made without the Province it may be sworn before any person authorized to take affidavit for use in this Province in the country or place in which such affidavit is made. After judgment defendant making default may be committed to prison, for a term not exceeding one year by order of the court or judge, if it be shown that defendant has the means or obtained credit under false pretenses, or has fraudulently disposed of his property, or is about to leave the Province. If a defendant arrested on mesne process at a hearing before a commissioner of which notice has previously been given to the plaintiff discloses the actual state of his affairs on oath and the commissioner is satisfied that the disclosure is a full one and that the defendant has not transferred any property intending to defraud the plaintiff, or since his arrest given any preference to any other ereditor, the defendant may be discharged. In the city court of Saint John and in magistrates' courts arrest may be had in the first instance for debt where the amount is not less than $2 and does not exceed $80, and after judgment defendant may be again arrested on execution, but if he has no property and there has been no fraud or preference he may be discharged by commissioner on hearing after notice. In case judgment is under $400 and it is shown that debtor is in position to pay by installments the judge may, in his discretion, order payment by installments. Disobedience of the order renders debtor liable to attachments as for contempt of court. (See Courts.)

Assignments in Trust for Benefit of Creditors. An act of the legislative assembly, intended to prevent preferences by an insolvent, provides that all transfers and payments made by an insolvent with intent to give any creditor an unjust preference, or to prejudice any creditor, are void as against the creditors injured. In case an assignment be made, or suit brought within sixty days after the transfer or payment, the presumption is against the validity of such transfer or payment, whether the same be made voluntarily or under pressure. The above provisions, however, do not apply to bona fide sale or payments in ordinary course of trade or business, nor to a transfer in consideration of any present actual bona fide payment in money or by way of security for any advance of money, or which is made in consideration of any present sale and delivery of goods or other property, provided same is bona fide and for fair value. Assignments are made in the first instance to the sheriff, or fo some resident of the debtor's county named by a majority of the creditors having claims of $100 and upward. A new assignee may be substituted on vote of like majority. All judgments and all executions not completely executed by payment are superseded by an assignment. Claims against estate must be proved within three months after notice to prove is given. Claimants must furnish particulars of the claim proved by affidavit and such vouchers as the nature of the case admits of, and the affidavit should also state that the claimant holds no security for the claim or any part thereof, and if negotiable paper is held, should state that it is not under discount. If security is held, or the paper is under discount, state all facts fully.

Chattel Mortgages and Bills of Sale. Every mortgage or conveyance of goods and chattels which is not accompanied by an immediate delivery and an actual and continued change of possession of the property mortgaged is void as against subsequent purchasers or creditors, unless the same or a true copy thereof is filed with the registrar in the county in which the maker resides, or if non-resident of the Province in the county in which the things are, within thirty days from the execution thereof, with an affidavit of the subscribing witness of the due execution and an affidavit of the mortgagee or his agent that the mortgagor is justly and truly indebted to the mortgagee in the sum mentioned in the mortgage, and that it was executed in good faith and for the express purpose of securing payment and not for the purpose of protecting the property mentioned therein against the ereditors of the mortgagor, or of preventing them from obtaining payment of any claims against him. Future advances may be secured where agreement therefor is recited in the mortgage. Every sale of goods and chattels not accompanied by an immediate delivery and followed by an actual and continued change of possession, must be in writing and accompanied by an affidavit of a subscribing witness thereto of the due execution and an affidavit of the bargainee or agent authorized in writing to take the conveyance, a copy of which authority shall be attached to the conveyance that the sale is bona fide and for good consideration, and not for the purpose of holding or enabling the bargainee to hold the goods against the creditors of the bargainor, and the conveyance must be registered as in the case of a chattel mortgage.

Conditional Sale of Chattels. Receipt notes, hire receipts, and orders for chattels given by bailee of chattels where the condition of the bailment is such that the possession passes without ownership being acquired until payment of the purchase money, shall only be valid against subsequent purchasers for value without notice in good faith in case of manufactured goods which, at the time possession is given to the bailee, have the name and address of the manufacturer, bailor, or vendor plainly attached thereto, and no such bailment shall be valid as against such subsequent purchaser, unless it is evidenced in writing signed by the bailee or his agent, and a copy of such writing is filed with the registrar of deeds of the county in which the bailee resides, within ten days from the execution of the receipt note or other instrument evidencing the bailment. The head office within the Province of any incorporated company, whether incorporated under the laws of the Province or otherwise, shall, within the provisions of this act, be deemed the domicile or place of residence of the company within the Province.

Corporations. Five or more persons may obtain letters patent for incorporation for ordinary business purposes by petition to the lieutenant governor on payment of a small fee regulated by amount of capital stock.

Claims Against Estates of Deceased Persons. (See Administration of Estates.)

Courts. Magistrates courts and other like inferior courts, including city courts, have jurisdiction in actions for tort to real or personal property, and in actions of debt for small amounts, the highest jurisdiction in tort being $32 and in debt $80. The county court has jurisdiction to the amount of $200 in tort and $400 in debt. Supreme court has jurisdiction in all matters, as well as concurrent jurisdiction with other courts. Security for costs may be required in all courts where plaintiff resides out of the Province.

Days of Grace. Where a bill or note is not payable on demand three days of grace are allowed. If the last day is non-juridical the next business day is allowed.

Descent and Distribution of Property. Real estate of an intestate is divided equally to and amongst his children or their representatives, or, if no children, then to the next of kindred and their representatives, including those of the half-blood and their representatives; but children advanced by settlement or portions not equal to the other shares shall have so much of the surplusage as shall make the estate of all equal, reserving the widow's right of dower. The surplusage of the personal estate of the intestate shall be distributed by the judge of probate in manner following, that is to say, one-third of it to the widow, and the residue in equal portions to and amongst his children and such persons as legally represent them. Any child receiving any advancement of real estate in the life time of the intestate in excess of his share of the real estate shall have the value of such excess taken into account in the distribution of the personalty. If there be no children nor any legal representatives of them, one moiety of such surplusage shall be allowed to the widow, and the residue be distributed equally amongst the next of kindred of the intestate in equal degree, and those who legally represent them, but there shall be no repsesentation among collaterals after the brothers' and sisters' children; and if there be no widow, all such surplusage shall be distributed equally amongst the children, and if no child, to the next of kindred, in equal degree, of the intestate and their representatives; and if after the death of the father any of his children shall die intestate, without wife or children in the lifetime of the mother, every brother and sister and their representatives shall have equal share with her. (See Married Women.)

Dower. Besides common right of dower the widow is entitled in equity to dower out of any lands to which her husband was beneficially entitled at the time of his death, whether such interest be wholly equitable or partly legal and party equitable, and where the husband had right of entry or action in any lands in which his widow would have had dower had he recovered possession thereof, she shall be entitled to dower out of the same if such dower be sued within the period within which such right of action or entry may be enforced.

Executions. In the supreme and county courts execution may issue upon signing final judgment and bind property, real and personal, from the time it is delivered to the sheriff to be executed. In inferior courts may issue against goods and chattels or the body. Memorials of judgment duly registered in the county registry of deeds bind any lands of defendant or his interest therein for five years when they may be renewed with like effect. (See Assignments in Trust.)

Exemptions. Wearing apparel, bedding, kitchen utensils, and tools of trade or calling to the value of $100, are exempt from levy and sale under execution.

Garnishee. A judgment creditor for an amount exceeding $80, exclusive of costs, may garnishee debts due and owing judgment debtor, except wages not exceeding $20.

Holidays. In all matters relating to bills of exchange, notes, etc, the following are the legal holidays: Sundays, New Year's, Good Friday, Easter Monday, Christmas Day, the birthday (or the day fixed by proclamation for the celebration of the birthday) of the reigning sovereign, or if such birthday is Sunday then the following day, the first day of July (Dominion Day), and if that is a Sunday then the second day of July, and any day appointed as a holiday for Canada by proclamation, and the day next following New Year's Day and Christmas Day when those days respectively fall on Sunday.

Interest. Legal rate 5 per cent.

Judgments in the supreme and county court bind lands of the debtor from the time execution is delivered to the sheriff to be executed. (See Executions and Assignments in Trust.)

Liens. Mechanics, machinists, builders, laborers, and all other persons doing work upon or furnishing materials to be used in the construction, alteration or repair of any building, or erection or erecting, furnishing or placing any machinery at any time in, upon or in connection with any building, erection or mine, have a lien for the price of the work, machinery or materials upon the building or mine and the lands occupied thereby to the extent of the interest of the employer or purchaser therein. The lien of wage earners is for wages not exceeding thirty days or a balance equal to wages for thirty days. A claim for lien specifying particularly the name and residence of claimant and employer or purchaser, the time at which the work was done, the nature of the work and materials, description of the property and period of credit, if any, verified by affidavit, may be registered. Claim for wages must be registered within thirty days after last day of labor and other claims may be registered before the commencement or during the progress of the work or within thirty days from completion thereof, or from supplying or placing machinery. Registered liens good for only ninety days, unless proceedings are taken to realize within that time, in which case lien may be continued.

Limitations. Actions on judgments of courts of record, recognizance bonds or other specialties, or for recovery of real property, must be brought within twenty years. In assault, battery, wounding, imprisonment, or words, within two years. All other personal actions within six years. Adverse possession against the Crown must be sixty years to bar title of Crown.

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Married Women. The married woman's property act of 1895 provides that a married woman shall be capable of acquiring, holding, and disposing, by will or otherwise, of any real or personal property as her separate property in the same manner as if she were a femme sole, without the intervention of a trustee, and that she may contract and sue and be sued as a femme sole. The separate personal property of a married woman, dying intestate, goes to her husband to the exclusion of the next of kin if no children, but if she leave children, her surviving, by a former husband, the surviving husband is entitled to one-third and her children, including those by the surviving husband, are entitled to the remaining two-thirds. If there are children by the surviving husband only, the husband is entitled to one-half and the children to the other half.

Mortgages. Mortgages must be proved or acknowledged in the same manner as deeds. (See Acknowledgments.) And to be effectual against creditors and bona-fide purchasers must be recorded. Are foreclosed by proceedings in chancery or under a power of sale, if any therein. May be discharged by a certificate of the satisfaction of the mortgagee, his representatives or assigns, acknowledged or proved and duly registered; or the mortgagee may acknowledge satisfaction on the margin of the registry book against the registry of the mortgage in the presence of the registrar or his deputy.

Notes and Bills of Exchange governed by statute of the Dominion of Canada, embodying mercantile law and legal decisions in the form of statutes. Notice of dishonor mailed to place at which the note on its face purports to have been made is sufficient.

Protest. Protest is required in case of non-acceptance or non-payment of a foreign bill appearing on its face to be such. In case of inland bill subject to due notice of dishonor, it is not necessary to note or protest.

Succession Duties Act. A succession duty is levied by the Province upon certain estates of deceased persons. The act does not apply to estates which do not exceed $5,000, or any property given for religious, charitable or educational purposes, or property going to father, mother, husband, wife, child, grandchild, daughter-in-law or son-in-law, where the estate does not exceed $50,000. Save as above estates are subject to a duty as follows: (1) Estate above $50,000, passing as above, $1.25 on each $100 up to $50,000, and $2.50 on each $100 of excess. (2) Where estate above $200,000, 5 per cent. (3) Where estate exceeds $10,000, so much as passes to grandfather, grandmother or other lineal ancestor, except father or mother, or to any descendant of a brother or sister, or to a brother or sister of the father or mother of the deceased, or to any descendant of such last mentioned brother or sister, or to a grandchild or other descendant of the deceased, except a son or daughter, 5 per cent. (4) Where the estate exceeds $5,000, so much as passes to any person in any other degree of collateral consanguinity than above mentioned, or to a stranger, 10 per cent. No duty is exacted where the value of property passing to any one person does not exceed $200. If the beneficiary resides out of the Province, the amount of duty is double the amounts above mentioned. Where deceased had life insurance, whether payable to himself or any other person, same shall be deemed part of his estate for the purpose of this act.

No foreign executor or administrator shall assign or transfer any debentures, bonds, stocks, or shares of any bank or other corporation, whatsoever, having its head office in New Brunswick standing in the name of the deceased person, or in trust for him, which are subject to succession duty until such duty is paid or until security is given as required by section 6, sub-section (b) of this act and any such bank or corporation allowing a transfer of any debentures, bonds, stocks, or shares contrary to this section shall be liable for such duty.

Transfer of Corporation Stock. Stock is deemed personal estate. No share is transferable until all calls due have been fully paid or where the holder is indebted to the company if the directors object. Shares of deceased member may be transferred by his representative. No transfer unless made under execution or decree of court is valid until entry upon the transfer book of the company.

Wage Earners. Preference to the extent of three months' wages is given to prsons in the employment of the debtor at the time of or within one month prior to: (1) Assignment for benefit of creditors. (2) Winding up under Provincial act. (3) Decease. (4) Seizure under execution. (5) Seizure under absconding debtors' act. (6) Foreclosure of railway trust mortgage. (See also Liens.)

Wills must be in writing, signed at the foot or end thereof by the testator or some other person in his presence by his direction, and such signature must be made or acknowledged in the presence of two witnesses present at the same time, who shall attest and subscribe in the presence of the testator and of each other. No form of attestation is necessary.

SYNOPSIS OF

THE LAWS OF NOVA SCOTIA

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by ALFRED WHITMAN, ESQ., Barrister, Halifax.
(See Card in Attorneys' List.)

Accounts. An account does not carry interest except by special contract in writing or custom of trade.

Acknowledgments. (See Deeds.)

Actions. In the supreme and county courts actions are regulated by the judicature act, which is practically the same as the English judicature act. The judges have made rules thereunder practically the same as the English rules of practice and procedure. Plaintiff resident without the Province may be compelled to give security for costs, either by payment into court, or by bond approved by defendant, or a judge.

Administration of Estates. Letters of administration are granted by the probate courts of which there is one for each county of the province. Administration shall be granted to some one or more of the persons hereinafter mentioned, and they shall respectively be entitled thereto in the following order: 1. The widow or next of kin, or both, as the judge of probate may think fit. 2. If the deceased was a married woman, to her husband except in certain specified cases. 3. If the persons so entitled as above do not take out administration within ten days after the return day of the citation, the judge of probate may commit it to one or more of the principal creditors. If the deceased leaves no known living relative in the province, or any who can be readily communicated with, administration may be granted to the Attorney-General.

Affidavits. Affidavits may be sworn abroad for use in Nova Scotia, before any judge of a court of record, British consul, a vice-consul exercising his functions, notary public, certified under his hand and official seal, mayor or chief magistrate of any incorporated town, or a commissioner authorized to administer oaths out of the Province, duly appointed by the government of the Province.

Aliens may take, hold, convey, and transmit real estate, and trust companies or corporations having a legal status in any foreign state may hold real estate by way of mortgage or otherwise in furtherance of any trust they may assume in connection with any enterprise or undertaking within the province of Nova Scotia, with full power to such companies or corporations to convey and transfer the same.

Arbitration is regulated by "The arbitration act," which provides for arbitration under submission and for references under order of the supreme court: A submission, unless a contrary intention is expressed therein, is irrevocable, except by leave of the supreme court or a judge thereof: The report of an official or special referee may be adopted wholly or partially by the court or a judge.

Arrest before Final Judgment. Where plaintiff, by affidavit, proves to the satisfaction of a judge, or commissioner, that plaintiff has a good cause of action to an amount which brings action within the jurisdiction of county, or supreme court, as the case may be, and that deponent has probable cause for believing, and does believe, that the defendant unless he is arrested is about to leave the Province, the judge without inquiring into the ground of belief, will make an order directing that such defendant be arrested and held to bail.

Arrest under Judgment. Under "The collection act" a creditor may obtain a warrant for the arrest and imprisonment of the debtor, upon an application to an examiner, supported by an affidavit of himself, his solicitor, or agent, setting forth the judgment and date of the recovery thereof, the amount due on the judgment, the deponent's belief that the debtor is about to leave the Province, and without stating the ground for such belief. Where an order to pay by installments has been made against a debtor, and such debtor fails to make any of the payments directed to be made by such order, execution may issue for his arrest, upon an affidavit setting forth such order and the non-compliance therewith. Any person arrested under such execution may apply for relief under the provisions of "the indigent debtors' act."

Assignments. (See Insolvent Laws.)

Attachment. In suits against absent or absconding debtor, the writ of summons shall be in the usual form, and may describe the defendant as absent or absconding. The plaintiff may sue out a writ of attachment to take defendant's property or he may issue a summons to any agent having money or credits due defendant, on making an affidavit showing a cause of action for an amount within the jurisdiction of court, stating the amount of debt or damage sustained, and that defendant is absconding or absent out of the Province. The sheriff shall levy for the amount indorsed on the writ with $120 for probable costs, in actions to recover $80 and upwards, and $28 in actions for less. Goods exhibited to sheriff as defendant's goods are appraised by sworn appraisers; defendant's goods are not bound by the attachment until levy is made. Perishable goods may be sold under an order of the court, unless defendant's agents give security, for the value within three days after their appraisement.

Banks. The legislation respecting Banks and Banking is contained in the act of the Parliament of Canada (Chapter 9, of the Statutes of Canada, A. D. 1913). The Provisions of the act apply to the twenty-four Banks mentioned in Schedule "A" to the act, and to every bank incorporated after the first day of January A. D., 1912. The act continues the Charters or Acts of Incorporation of said Banks until the first day of July A. D., 1923, subject however to forfeiture by reason of insolvency or non-performance of the conditions of the Act or by any other reason.

The provisions for the incorporation of Banks are largely similar to the provisions of Law respecting the formation of other Corporations. A Bank cannot commence business without previously obtaining permission from the Treasury board to do so. The Capital stock of a Bank may be increased by resolution of the share-holders and approval of the Treasury Board. A full statement of the affairs of the Bank showing the liabilities and assets must be laid before the shareholders at their annual meeting. A Bank must hold not less than 40 per cent of its cash reserves in Dominion Notes, if not it incurs a penalty of $500.00 for each violation. No Bank can issue a note for less than $5.00 or for any sum which is not a multiple of $5.00. The payment of the notes is a first charge on a bank's assets. Existing banks must make a deposit with the minister of finance equal to five per cent of the note circulation. Notes of the Banks are payable at Par throughout the Dominion of Canada.

Banks are authorized to hold real estate such as is required for their own use, but all other real estate howsoever acquired must be sold within seven years from the date of the acquisition thereof, to make advances in aid of building ships and taking security therefor, to lend money upon the security of standing timber, and upon the security of natural products or live or dead stock of a wholesale dealer, and to take warehouse receipts as collateral security and similar business. Banks are also authorized to lend money to farmers upon the security of their threshed grain grown upon the farm. They are obliged to make returns to the finance minister showing their assets and liabilities, and giving the names of their shareholders in detail. Several penalties are provided for the enforcement of the various provisions of the Act. The stock of a Bank is transferable at its head office.

Bills of Exchange and Promissory Notes. The law is much the same as in the United States. A demand draft is without days of grace. A sight draft is entitled to three days of grace. Notice of honor is necessary to hold the indorser but not the maker. A bill or note falling due on a legal holiday (Sunday, Christmas Day, New Year's Day, Good Friday, birthday of sovereign or any day made a holiday by royal proclamation) is payable on the following day. The subject of bills of exchange and promissory notes is by the constitution within the powers of the federal parliament, and consequently, the law on the subject is the same in all the Canadian provinces, excepting certain enactments relating exclusively to the Province of Quebec.

Bills of Lading are negotiable. Every consignee of goods named in a bill of lading to whom the property in the goods therein mentioned passes upon or by reason of such consignment or indorsement, shall have transferred to and vested in him all right of suit and be subject to the same liabilities in respect of such goods as if the contract contained in the bill of lading had been made to himself.

Bills of Sale. Bills of sale, as against purchasers and creditors have effect from time of filing only. The statute prescribes forms of affidavits of bona fides, which must be followed. A renewal statement and affidavit shall be filed within 30 days next preceding the expiration of the term of three years from (a) the filing of every bill of sale or copy, and (b) the filing of every renewal statement and affidavit or amended renewal statement, otherwise such bill of sale shall cease to be valid as against creditors of the grantor and subsequent purchasers. A form of renewal statement and affidavit is prescribed by statute, which must be followed.

In addition to the above enactments, two classes of bills of sale are dealt with by statute: 1. Bills of sale given to secure the grantee, (a) re-payment of any advances to be made by him under an agreement therefor; or (b) against loss or damage by reason of the indorsement

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of any bills or promissory notes; or (c) against loss or damage by reason of any other liability incurred by the grantee for the grantor; or (d) against loss or damage by reason of any liability to be incurred, under an agreement by the grantee for the grantor. These must fully set forth by recital or otherwise the terms, nature, and effect of the transaction and be accompanied by an affidavit of the truth of the recital and of bona fides. 2. Every hiring, lease, or bargain for the sale of personal chattels, accompanied by an immediate delivery and followed by an actual and continued change of possession, whereby it is agreed, (a) that the property in the personal chattles; or (b) in case of a bargain for sale, a lien thereon for the price thereof or any portion thereof, shall remain in the person letting to hire, the lessor, the bailor or bargain or, until the payment in full of the hire, rental, or price agreed upon by future payments or otherwise. These must be evidenced by instrument or instruments in writing, showing the terms of such agreement, and be signed by the person to whom such personal chattels are hired, the lessee, bailee, bargainee, or his agent thereunto duly authorized in writing, and shall have written or printed therein the postoffice address of the person letting to hire, lessor, bailor or bargainor, and a true copy or true copies of such instrument or instruments shall be filed within ten days from delivery of the chattels accompanied by an affidavit of bona fides.

Chattel Mortgages. (See Bills of Sale.)

Collaterals. Bills of exchange, promissory notes, warehouse receipts, and bills of lading, etc., may be given as collateral security.

Conveyances. (See Deeds.)

Corporations are formed by special charter, act of parliament, or under joint stock companies acts. Foreigners can form a joint stock company for the purpose of carrying on business in Nova Scotia. All corporations, whether domestic or foreign, must hold a certificate of registration before they can legally do or carry on in Nova Scotia any part of their business. Stockholders are liable for the full amount of the stock subscribed. This latter does not apply to banks, as stockholders under the bank act are liable to double the amount of the stock subscribed.

Costs. Costs in action are in the discretion of the judge, but generally are allowed to successful litigant.

Courts. The supreme court, county court, city courts and municipal courts have a civil and criminal jurisdiction. The first two have an appellate jurisdiction. The judges of the supreme court, consisting of a chief justice and six associate judges, hold circuit courts throughout the province. The county court is divided into districts and each judge holds court in his own district. The jurisdiction of the supreme court in actions for debt or liquidated demand is from $20 upward: of the county court from $20 to $800.

Days of Grace. Where a bill is not payable on demand, the day on which it falls due is determined as follows: Three days, called days of grace are, in every case, where the bill itself does not otherwise provide, added to the time of payment as fixed by the bill, and the bill is due and payable on the last day of grace. When the last day of grace falls on Sunday or legal holiday in the Province, then the next day following shall be the last day of grace.

Deeds. Deeds within the Province may be proved upon the oath of a subscribing witness to the execution thereof taken before the registrar, a judge of the supreme court, a notary public, a justice of the peace, a barrister of the supreme court, a commissioner of the supreme court, or upon the personal acknowledgment by the parties under oath of the due execution thereof. Deeds may be proved out of the Province, as well in foreign countries as in British dominions, by the oath of a subscribing witness or the acknowledgment by the parties under oath. Such oath to be administered by a commissioner appointed to take affidavits without the Province, by a judge of any court of record, by the mayor or recorder of any city or incorporated town, by a minister, consul, vice-consul or consular agent of His Majesty, or by a notary public, residing respectively at or near the place where the deed is proved, and such attestation with the date shall be certified in writing on the said deed by such public functionary. All deeds and mortgages shall be under seal and executed in the presence of at least one witness and unless registered shall be ineffective against any subsequent purchaser or mortgagee for valuable consideration, and without notice, who shall first register his deed or mortgage of such lands.

By Chapter 2 of Acts of 1912 short forms are provided for a deed, lease and mortgage and the covenants in each respectively, and the act declares the legal effect of such forms to be the same as certain standard long forms as set out in the schedules to the Act.

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 a witnesses residing abroad.

Descent of Real and Personal Estate. Real Estate. When a person dies intestate, any real estate to which he may be entitled at the time of his death shall descend as follows: 1. In equal shares to children and issue of deceased children according to the right of representation. If no child of the intestate living at the time of his death to the other lineal descendants of such intestate,who shall share equally if in same degree, otherwise according to the right of representation. 2. If no issue one-half to father, one-half to widow in lieu of dower; if no widow, the whole to father. 3. If no issue or father, one-half to widow, other half in equal shares to mother, brothers, and sisters, and the children of deceased brother and sister, by right of representation; if no widow, whole to mother, brother and sister, and children of any deceased brother or sister, by right of representation. 4. If none of foregoing in equal shares to his next of kin of him in equal degree, excepting where two or more collateral kindred in equal degree, but claiming through different ancestors shall be preferred, but in no case shall representatives be admitted among collaterals of the brother's and sister's children. 5. If person deceased unmarried and under age, estate inherited from either parent goes to children of same parent and issue equally, if of same degree, otherwise according to right of representation; if no children of same parent, to all the issue of the other children of the same parent equally, if in same degree; otherwise according to right of representation.

Personal property descends in the same way, except that after the payment of debts, funeral expenses, etc., one-half of the residue goes to the widow, if any, provided that the intestate shall leave no lawful issue. If he leaves issue, one-third of such property shall go to his widow; and if the intestate shall leave no kindred, the whole of such residue shall go to his widow.

Dower. A wife is entitled to dower out of all lands (with a few exceptions, of which her husband was seized at and after their marriage) in which she did not bar dower during his lifetime; but a husband can only be tenant by the curtesy of such of his wife's land as she died seized of.

Execution. Writ of execution (fieri facias) may issue upon a judgment or order for the payment of any moneys or transfer of real or personal property, and, if unexecuted, shall remain in force for one year only from its issue, but may be renewed at any time before date of expiration from date of renewal, and so on from time to time. No writ of execution shall bind the goods of the defendant but from the time the writ is delivered to the sheriff to be executed, and a levy may be made under it at any time, and after levy and due advertising the property shall be sold, subject to the provisions of "the Creditor's Relief Act" (3 Edw.VII., Ch. 14). There shall be no priority among creditors in the distribution of proceeds of personal property taken under execution from the supreme court or county courts. Execution against lands may issue at any time within six years from the signing of judgment. A judgment does not bind real estate of the debtor until it has been registered in the registry of deeds for the county or district in which said lands lie, for one year, and after such period the judgment creditor may order execution to be levied on said lands.

Exemptions. The necessary wearing apparel, beds, bedding and bedsteads of the debtor and his family, one stove and pipe therefor, one crane and its appendages, one pair of andirons, one set of cooking utensils, one pair of tongs, six knives, six forks, six plates, six teacups six saucers, one shovel, one bible, six chairs, one milk-jug, one teapot, six spoons, one spinning wheel, one weaving loom, one sewing machine, if in ordinary domestic use, ten volumes of religious books, one water bucket, one axe, one saw, and such fishing nets as are in common use, the value of such nets not to exceed $20; all necessary fuel, meat, fish, flour and vegetables, actually provided for family use, not more than sufficient for the ordinary consumption of the debtor and his family for thirty days, and not exceeding in value the sum of $40, one cow, two sheep, and one hog and food therefor for thirty days, tools and implements of, or chattels ordinarily used in the debtor's occupation to the value of $30.

Frauds. No action shall be brought whereby to charge any executor or administrator upon any special promise to answer damages out of his own estate, or whereby to charge any defendant upon any special promise to answer for the debt, default, or miscarriage of another person, or whereby to charge any person on an agreement made upon consideration of marriage, or upon any contract or sale of lands or any interest therein, or in any mining areas, or upon any agreement that is not to be performed within the space of one year from the making thereof, unless the agreement upon which the action shall be brought, or some memorandum or note thereof, shall be in writing, signed by the party to be charged therewith, or some other person authorized by him. Promise to be answerable for the debt of another not invalid for want of statement of consideration. No contract for the sale of goods for the price of $40 or upwards shall be good unless the buyer accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the bargain or in part payment, or that some note or memorandum of the said bargain may be made and signed by the party to be charged therewith or his agents thereunto authorized.

Garnishment. The court or a judge, upon the ex parte application of anv person who has obtained a judgment for the payment of money, upon affidavit of himself or solicitor stating that judgment has been recovered, and it is still unsatisfied, and to what amount, and that any other person is indebted to such debtor, and is within the jurisdiction, order that all debts owing from such third person (the garnishee) to such debtor shall be attached to answer the judgment. Wages up to $40 cannot be garnisheed, also debts due from the government.

Husband and Wife. (See Divorce and Married Women.)

Interest. Legal rate, 5 per cent. A contract may be made in writing for any rate when the security is real or chattel real, or for any rate where the security is personal property or personal responsibility, except in the case of banks, who may not charge more than 7 per cent. judgments bear interest at 6 per cent.

Judgments. (See Executions.)

Jurisdiction. (See Courts.)

Limitations on all contracts not under seal, six years; judgments and contracts under seal, twenty years. No arrears of dower, nor damages on account of such arrear, shall be recovered or obtained by any action or proceeding for a longer period than six years next before the commencement of such action, or suit; and no arrears of rent, or interest, or money charged on or payable out of land, or in respect to any legacy, or any damages therefor, shall be recovered after six years from date when due, or from acknowledgment of the same in writing.

Married Women's Property Act. Under this act married women may acquire hold, and dispose of, by will or otherwise, any real or personal property as their separate property, in the same manner as if they were femme sole, and without the intervention of any trustee. Married women, by registered declaration, or consent of husband, may carry on separate business. Married women having separate estate may sue and be sued as femme sole.

Mechanic's Lien. Every mechanic, machinist, laborer, builder, contractor, or other person doing work upon or furnishing materials to be used in the construction of any building, road, railway, wharf, pier, bridge, mine, well, excavation, sidewalk, pavement, drain, or sewer has a lien for the price of his work thereon to the extent of the owner's interest. A claim for lien must be filed in the registry of deeds for the registration district in which the lands lie, within thirty days after the completion of the work or the supplying of materials, else the lien will cease. Proceedings to enforce registered liens must be commenced within ninety days after the completion of the work, services, or furnishing of supplies, etc Unregistered liens shall cease to exist on the expiration of time limited for registration, unless in the meantime an action is commenced to realize the claim.

Mortgages must be under seal. A mortgage is foreclosed by an action in the supreme court, and is discharged by a release in which reference is made to the registry of the mortgage, and same must be under seal, executed and recorded as an ordinary deed, and a marginal note made on the registered mortgage that the same has been released.

Notaries are appointed by the government of Nova Scotia and have power to take protests.

Notes and Bills of Exchange. (See Bills of Exchange and Promissory Notes.)

Partnerships may be general or limited. Limited partnerships are created under statute, and there must be at least one general partner. Declaration of partners, showing interest of special partner, amount of his liability, names of partners, duration of partnership, and the like, must be filed in the registry office and published in newspapers. "The Partnership Act" of 1911 deals with the nature of partnerships the relations of partners to persons dealing with them, and to one another, and also with the dissolution of partnership and its consequences. This act is copied from the English partnership act and is about of the same effect.

Powers of Attorney to execute a document under seal must be under seal. Where conveyances of land are executed under power of attorney, it must be registered with the conveyance.

Probate Law. (See Administration and Descent of Property.)

Protest. Delay in giving notice of dishonor is excused where the delay is caused by circumstances beyond the control of the person giving notice. Where an inland bill (one which on the face of it purports to be both drawn and payable within Canada, or drawn upon some person resident therein) has been dishonored, it may be noted and protested for non-acceptance or non-payment, as the case may be. Where a foreign bill has been dishonored for non-acceptance it must be duly protested for non-acceptance. If it is not so protested the drawer and endorsers are discharged.

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Replevy. An order for replevin may issue after plaintiff makes affidavit that he is entitled to property, that it is detained unjustly, and setting forth the value of it. The sheriff, before replevying, may require a bond from plaintiff to save him harmless, before proceeding to replevy.

Service of Summons must be personal, except in special cases, where judge may order substituted service.

Taxes are levied on real and personal property by the municipalities and collected by them. Outside the city of Halifax a tax is levied on income.

Wills must be in writing, signed at the foot or end thereof by the testator or by some other person in his presence and by his direction, and such signature shall be made or acknowledged by the testator in the presence of two or more witnesses, present at the same time; and such witnesses shall attest and subscribe the Will in the presence of the testator and in the presence of each other, but no form of attestation shall be necessary. Executors are competent witnesses. Wills of minors are invalid.

SYNOPSIS OF

THE LAWS OF ONTARIO

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by RYCKMAN & MACKENZIE, Barristers, Toronto. (See Card in Attorneys' List.)

The law throughout Canada is uniform on the following commercial matters: 1. Currency and coinage. 2. Banking, incorporation of banks, and issuing of paper money. 3. Savings banks. 4. Bills of exchange and promissory notes. 5. Interest. 6. Legal tender. 7. Bankruptcy and insolvency. 8. Patents. 9. Copyrights. There are other matters exclusively within the jurisdiction of the Dominion, but they are not commercial. The provinces can not legislate on the above matters, although they have general jurisdiction in matters of property and civil rights. The laws in the different provinces on the subjects within their jurisdiction vary. There is an analogy between this division of jurisdiction between the Dominion and the provinces and that between the United States and the respective states. The difference between the two systems is that all unenumerated powers in Canada belong to the Dominion. In the United States all unenumerated powers belong to the respective states.

Acknowledgment. To take a debt out of the statute of limitations a payment on account or an acknowledgment in writing is required. This acknowledgment must be in such terms as to amount to an admission of the existence of the debt, and promise to pay same.

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 specially 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.

Where the writ is specially endorsed the defendant shall with his appearance file an affidavit that he has a good defense and showing nature of the defense. This may be treated as a statement, defense by the plaintiff, and pleadings may be closed, by serving the defendant within five days with a twenty-one days' notice of trial.

Where the defendant appears to a specially endorsed writ and files his affidavit as above, the plaintiff may cross examine on such affidavit and move for judgment, and if the court is satisfied that a good defense upon the merits is not shown or that such facts as entitle the defendant to defend or that such facts have not been disclosed, judgment may be given for the plaintiff. Where a defendant who has appeared and filed his affidavit as above does not file a statement of defense within the time limited, his affidavit shall stand as his defense and notice of trial may be at once served.

Where writ is not specially endorsed and defendant fails to appear, plaintiff may sign interlocutory judgment, directing an assessment of damage, or a reference.

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, 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 and interest, where the amount, or original amount, is ascertained by the signature of the defendant or person whom, as executor or administrator, he represents, provided in the case of an unsettled account the whole account does not exceed $600. No costs are recoverable in the division court as a general rule, only court fees, which are not large. County courts have jurisdiction in: 1. All personal actions where debt or damages claimed do not exceed $500. 2. In all suits relating to debt, covenant, and contract to $800, if ascertained by act of both parties or signature of the defendant, or in any similar case to any amount, if the parties by writing submit to the jurisdiction of the court. 3. Recovery of land or damages for trespass thereon where its value does not exceed $500. 4. Partnership accounts where stock or capital is not over $2,000. 5. Legacies not above $500 out of an estate not exceeding $2,000. 6. Claims on mortgages where sum claimed does not exceed $500. 7. Actions for redemption or equitable relief where sum does not exceed $500. 8. Contestation of creditors' claims on an estate where amount of claim does not exceed $500. They can not try: 1. Title to land where the value of the land is over $500. 2. The validity of any devise or bequest over $200 where the estate is over $2,000. 3. Actions for libel or slander, or crim. con. or seduction, or against a justice of the peace, if the justice by writing objects thereto within six days after the notice of action which is required to be given in such actions is served upon him. In all these latter cases and in all actions above the limit of the county courts, the Supreme Court of Ontario has jurisdiction. If suits are brought in the wrong court, the parties may be 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.)

Administration of Estate. Administration is granted by the judge of the surrogate court of the county in which the deceased had his last place of abode, or in which he leaves property. It is granted to the next of kin. A creditor may apply for administration. Letters cannot be granted until after an interval of fourteen days from the death. The administrator must reside in the province.

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, or before the mayor or chief officer of any city or town or before British consul or vice-consul.

If made before the mayor of a city or town they must be certified under the common seal of the municipality.

Agreements where Possession Passes without Ownership. In case of an agreement for the sale or transfer of merchandise of any kind to a trader for the purpose of re-sale, possession to pass but not ownership, any such provision is void against creditors, mortgagees or purchasers without notice, unless the agreement is filed in the office of the county court clerk within ten days of the execution of the agreement. This provision does not affect purchases in ordinary course of business, or sales of manufactured articles bearing the maker's name.

Alien Enemies. All rights of alien enemies are suspended during the present war, and all trading with alien enemies is prohibited. Alien enemies include neutrals trading in enemy countries. Aliens residing in Canada are required to register and have certain rights under Royal Proclamations. These may be suspended at any time. The various statutes of limitations continue to run against alien enemies.

It has been held in Ontario that the suspension of rights extends to Canadian companies whose shareholders are alien enemies. The contrary has been held in England, and the Ontario decision is probably wrong. The charters of such companies may, however, be suspended by the Government. No case has yet been reported as to companies of neutral countries whose shareholders are alien enemies. It seems likely that the suspension of rights would extend to such companies.

Aliens. Every kind of real and personal property may 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 by being 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, or by payment into court of $200. In the county courts, security is required to the extent of $200, or by payment into court of $100. In cases where debt is ascertained by the signature of the defendant, the security required is $50 on motion for speedy judgment. (See also Judgments.) R. S. O. C. 65, Appeals. (See Alien Enemies.)

Appeals. Appeals from all the Ontario courts are heard at Toronto by the Appellate Division of the Supreme Court of Ontario, whose decision is final unless the amount in dispute exceeds $1,000, or unless future rights, the title to real estate, or the validity of a patent are involved, in which cases a further appeal to the Supreme Court of Canada at Ottawa is allowed. If future rights are involved or if the amount in dispute exceeds $4,000, the appellant, instead of going to the Supreme Court of Canada, may, at his option, appeal to the Judicial Committee of His Majesty's Privy Council at London, Eng. The Privy Council will not hear appeals from the Supreme Court of Canada unless some constitutional question or some important principle is involved.

Arbitrations. Arbitrations are now governed by the revised statute respecting arbitrations. A submission is irrevocable, unless there is a contrary expression therein, except by leave of the court. Arbitrators are allowed three months to make their award. The court has power in certain cases to appoint an arbitrator.

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 supersede attachments, executions, judgments, except judgments for alimony duly registered in registry office against the lands of the defendant, and executions in the hands of the sheriff not completely executed by payment subject to the first execution's lien for costs. Garnishee orders, receiving orders by way of equitable execution are also superseded by an assignment. 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 by the debtor 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 shown to have been made under pressure by the preferred creditor. (See Wages.)

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, a litigant in that court, even if successful, has to pay his own costs. The tendency of legislation has been to extend the jurisdiction of the inferior courts.

Attachment. A resident in Ontario who, being indebted to any other person in a sum exceeding $100, 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.

Banks. The subject of banks and banking is one which, by the Canadian constitution, is committed to the parliament of Canada. The legislature of the Province has no power to deal with the subject. The legislation respecting banks and banking is contained in the Statutes of Canada (1913) 3-4 Geo. V. C. 9, and cited as the Bank Act.

Bills of Exchange and Promissory Notes. A war tax stamp duty of 2 cents is required to be paid on bills, notes or checks and all paper negotiated through a bank. Three days grace are allowed. (See Days of Grace.) Presentment for payment should be made when due, and notice of dishonor given or mailed within one day, in order to hold the indorser or drawer, but these steps are not necessary in order to hold the acceptor of a bill or maker of a note. 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, Victoria Day (24th May), Dominion Day (1st July), Labor Day (1st Monday in September), King's Birthday, and any special days appointed by proclamation for public holidays, fasting or thanksgiving. The legal rate of interest is now 5 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. (See R. S. C., 1906, C 119.)

Bills of Lading are now negotiable. Every bill of lading in the hands of a consignee or indorsee for valuable consideration representing goods to have been shipped on board a vessel or train, is conclusive

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evidence of such shipment as against the master or other person signing the same, notwithstanding that such goods or some part thereof may not have been so shipped, unless such holder of the bill of lading has actual notice at the time of receiving the same that the goods had not in fact been laden on board, or unless such bill of lading has a stipulation to the contrary, but the master or other person so signing may exonerate himself in respect to such misrepresentation by showing that it was caused without any default on his part, and wholly by the fraud of the shipper, or of the holder, or of some person under whom the holder claims. Every consignee of goods named in a bill of lading to whom the property in the goods therein mentioned passes upon or by reason of such consignment or indorsement, shall have transferred to and vested in him all right of suit and be subject to the same liabilities in respect of such goods as if the contract contained in the bill of lading had been made to himself.

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. An affidavit of good faith showing that the bill of sale or chattel mortgage is not made for the purpose of defrauding creditors must be made by the vendee or chattel mortgagee before the bill of sale or chattel mortgage can be filed. Renewal statements verified by similar affidavit filed during the last month of each year of their currency are required to preserve their effect. When a chattel mortgage is made to a company the affidavit of good faith must be made by the president, vice-president, manager, assistant manager, secretary or treasurer, or other officer, duly authorized by resolution of the directors. An officer or agent must state that he has "personal knowledge of the facts deposed to."

Claims against Estates of Deceased Persons. Where a person dies intestate, letters of administration may be granted by the surrogate court. (See Administration of Estate.) 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, or if testator lived out of Ontario, in the city where the property devised is situate. Real and personal property both devolve upon an administrator. Security is required before administration granted. (See Descent.)

Collaterals. Chattel mortgages are frequently given as collateral security for advances. In dealing with collaterals parties must be careful not to prejudice their main or original security. They are expected to realize on the main security to the best advantage before proceeding on their collateral security.

Contracts. Contracts for the sale of lands or an interest in land must be in writing, signed by the party to be charged. The provisions of the statute of frauds are in force in Ontario, modified by the act respecting written promises and acknowledgments, which extends the statute of frauds in cases of contracts for the sale of goods of the value of $40 and upward to contracts for goods to be delivered at a future time.

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 that the directors of the company remain personally liable to the company's servants for wages incurred or earned while such directors have been in office, to the amount of one year's wages. Provision has been made for the winding up of joint stock companies.

Costs, Security for. (See Aliens.)

Days of Grace. Where a bill is not payable on demand, the day on which it falls due is determined as follows: Three days, called days of grace, are, in every case where the bill itself does not otherwise provide, added to the time of payment as fixed by the bill, and the bill is due and payable on the last day of grace. When the last day of grace falls on Sunday or legal holiday in the Province, then the next day following shall be the last day of grace.

Deeds. All deeds should be in duplicate, so that one may be registered while the other is returned certified, and must be registered in order to be valid against subsequent purchasers for value or mortgagees. Common forms of deeds may be used, but the statute provides a short form, with covenants and bar of dower. All deeds must 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.) The short forms of deed and affidavit of execution are as follows:

This Indenture, made in duplicate the.....day of.....
in the year of our Lord one thousand nine hundred and.....
In pursuance of the short forms of Conveyances Act:
Between.....
Witnesseth that in consideration of the sum of.....
dollars, of lawful money of Canada now paid by the said part.....
of the.....Part to the said part.....of the First Part
(the receipt whereof is hereby by.....acknowledged)
.....he.....the said part.....of the first part
Do.....Grant unto the said part.....of the.....
part in fee simple.....
All and Singular th....certain parcel.....or tract.....of
land and premises situate, lying and being .....
To have and to hold unto the said part.....of the.....
Part.....heirs and assigns to and for.....their
sole and only use forever Subject Nevertheless to the reservations, limitations, provisoes and conditions expressed in the original grant thereof from the Crown.
The said part.....of the First Part Covenant.....with
the said part.....of the.....part THAT.....he
.....ha....the right to convey the said lands to the said part
.....of the.....part notwithstanding any act of the
said part.....of the First part.....
And that the said part....of the .....Part shall have quiet possession of the said lands free from all incumbrances.
And the said part....of the First Part Covenant....with the said part....of the.....Part that....he....will execute such further assurances of the said lands as may be requisite.
And the said part....of the First Part Covenant.....with the said part....of the.....Part that....he....ha....done no act to incumber the said lands.
And the said part....of the First Part Release.....to the said part....of the.....part ALL.....Claims upon the said lands. And the said party of the Third Part hereby bars her dower in the said lands.

In Witness Whereof the said parties hereto have hereunto set their hands and seals.
Signed, Sealed and Delivered
In the Presence of

Dominion of Canada } I, ...
Province of Ontario } of the.....of.....
} in the.....Count .....of.....
To Wit: } .....make oath and say:

1. That I was personally present and did see the within Instrument and a Duplicate thereof duly signed, sealed and executed by ..... the part....thereto.
2. That the said Instrument and Duplicate were executed by the said part....at the.....
3. That I know the said part.....
4. That I am a subscribing witness to the said Instrument and Duplicate.

Sworn before me at the.....of.....in the.....
of.....this.....day of.....in the year of our Lord 191...

A Commissioner for taking Affidavits, etc.

Depositions. Witnesses examined under a commission from a court must be examined under the directions given by the commission. In ordinary cases depositions may be taken before a notary public, and will be signed by the party, and his signature will be verified by the notary.

Descent. When no issue, a widow is entitled to $1,000 part of the net value of her deceased husband's real and personal property. In respect to the residue, real estate descends like personality—one-half to the widow or widower and one-half to all the next of kin in equal degree, where there are no children. Where there are children, one-third to the widow and two-thirds to the children and the legal representatives of children who predecease the intestate. 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. (See Dower.)

Distress. (See Exemptions.)

Dower. When there is no issue of the marriage surviving the father, the widow is entitled, in case of intestacy, to $1,000 of her husband's estate and over that amount to her share in the residue. Under the Devolution of Estates Act, R. S. O. (1914) C. 119, a widow is always entitled to elect whether she will take her interest under this act or her dower (i. e., a life interest in one-third of her husband's real property—free from his debts, and in all cases she is allowed to take a sum in gross or distribute share instead of her common law dower, being one-third of the estate where there are children, and one-half where there are no children, after payment of debts.

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 persons, 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.

Executions are issued by the division, county, and high courts within their respective jurisdiction. Writs against goods and lands are concurrent and run for three years, and can then be renewed. A land writ can only be issued where the judgment is $40 or upwards. Patent rights may now be sold under execution. Rights under trade marks are apparently not saleable under execution.

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 neeessary 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 $100.00, and feed therefor for thirty days, tools and implements of, or chattels ordinarily used in, the debtor's occupation, to the value of $100; and of bees 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 devisess.

Foreign Corporations. Foreign corporations cannot as a rule do business in Ontario without payment of a license fee and complying with the laws of the Province or of the Dominion as to corporations. Contracts of foreign corporations are adjudicated upon in the same manner as if they were the contracts of domestic corporations. (See Revised Statutes of Ontario (1914) C. 179. (See Alien Enemies.)

Foreign Judgments. (See Judgments.)

Fraud vitiates everything. Reasonable diligence after discovery of fraud is required in order to prosecute a claim successfully.

Garnishment. In the high court and county court garnishment is effected by attachment of debts under order of court. In the division court garnishment is effected by service of the original summons upon the garnishee. Wages are protected from garnishment unless the sum be for wages amounting to $25, and then only to the extent of the excess. If the debt is for board or lodging, and the debtor is an unmarried man, or if married and the judge thinks the exemption unnecessary, then there is no exemption.

Holidays. In Ontario the legal holidays are Sunday, New Year's Day, Good Friday, Easter Monday, Victoria Day (24th May), Dominion Day, Labor Day, King's Birthday, Thanksgiving Day. Where the time allowed for doing any act expires, unless otherwise provided, on a holiday, it may be done on the next day succeeding.

Husband and Wife. (See Married Women.)

Interest. Five per cent is the legal rate, except as to securities in force on 7th July, 1900. Banks can not recover more than 7 per cent for interest or discount. 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. But see the Dominion Moneylenders act (R. S. C. Chap. 122) limiting rate of interest to 12 per cent per annum on negotiable instruments contracts, or agreements concerning loans of money under $500, and to 5 per cent after judgment.

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 defense thereto any defense 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, otherwise foreign judgments may be attacked for fraud or want of jurisdiction in the court in which judgment was obtained. In the case of actions on judgments obtained in the province of Quebec, if the service was not personal any defense may be set up which might have been made to the original judgment. (See Alien Enemies.)

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Jurisdiction. (See Actions.)

Lands Titles System. Lands in Ontario may be under the Land Titles Act, R. S. O. (1914) C. 126., 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 indorsed all transfers. No seal is necessary. Where papers are sent to the United 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, or from last payment thereon or written acknowledgment. Actions upon a bond or other specialty within twenty years. 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. Non-resident plaintiffs have no longer time than if they were resident. As against a non-resident defendant or when the cause of action did not accrue before he left Ontario, the action may be brought within time limited after return of defendant to Ontario. 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. Judgments remain in force for twenty years and can be kept renewed. Actions on insurance policies must be brought within one year from death, or a further period of six months.

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 or bequeath her property by will. A wife is entitled to dower out 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. Payments made in good faith to contractors to the extent of 80 per cent (in the case of contracts of $15,000 or over, 85 per cent) are a discharge of the liens pro tanto. A statement of claim must be filed in the registry office of the county where the lands lie, within thirty days after 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 Supreme Court of Ontario. Special laws are made as to reduction of legal expenses in these cases. 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.

Notes and Bills of Exchange are governed by the Dominion law. (See Bills of Exchange.)

Partnerships. All partnerships, for trading, mining, or manufacturing purposes, must be registered in the registry office of the registry division in which they intend to carry on business. The declaration must set out the full names, occupations, and residence of the partners, the business they propose to carry on, and for how long their partnership has existed or is to exist, and that the persons named in the affidavit are the only members of the partnership. 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.

Power of Attorney. May be general or special. If intended to affect land, must be verified by affidavit of execution in the same way as a deed, and must be capable of registry in the registry office. If intended to convey a particular parcel of land, such parcel must be described. A general power to convey lands would be registered in the general registry.

Probate Laws. A will is proved in the surrogate court of the county in which the deceased has his last place of abode. Affidavit of execution of will, death, place of abode, inventory, valuation, etc., must be produced. If no executor is named in will, administration is granted with will annexed. Trust companies frequently act as executors, the original executors named in the will renouncing in their favor.

Proof of Claims. (See Affirmations.)

Protest. Delay in giving notice of dishonor is excused where the delay is caused by circumstances beyond the control of the person giving notice. Where an inland bill (one which on the face of it purports to be both drawn and payable within Canada, or drawn upon some person resident therein) has been dishonored, it may be noted and protested for non-acceptance or non-payment, as the case may be. Where a foreign bill has been dishonored for non-acceptance, it must be duly protested for non-acceptance. If it is not so protested, the drawer and endorsers are discharged.

Redemption. The mortgagor is entitled to redeem the property so long as he is not barred by statutes of limitation or by sale made under powers contained in the mortgage.

Replevin. Replevin is now extended to all cases in which property is unlawfully taken or detained. A bond is required from the person replevying that the property shall be forthcoming in the event of the proceedings failing.

Succession Duties—R. S. O. 1914, Cap. 24 and amendment, 5 years V. C. 7. No duty shall be leviable on any estate, the value of which does not exceed $5,000. Where the aggregate value of the property of the deceased exceeds $25,000 and passes to the grandfather, grandmother, father, mother, husband, wife, child, son-in-law, or daughter-in-law of the deceased.

(a) Where the said aggregate value exceeds $25,000 and does not exceed $50,000, 1 per cent. For larger amounts, from 2 to 10 per cent.

Where the value exceeds $100,000 and the amount passing to any one person above mentioned exceeds the amount next mentioned, a further duty.

(b) Where the whole amount so passing to one person exceeds $100,000 and does not exceed $200,000, 1 per cent. For larger amounts, from 1½ to 5 per cent.

Where the aggregate value of the property of the deceased exceeds $5,000, and does not exceed $50,000 so much thereof as passes to lineal ancestor of the deceased except the grandfather, grandmother, father and mother, or to any brother or sister of the deceased, or to any descendant of such brother or sister, or to a brother or sister of the father or mother of the deceased, or to any descendant of such last mentioned brother or sister, 5 per cent, and larger amounts from 10 to 12½ per cent.

Where the value of any dutiable property exceeds $50.000 and the amount passing to any one person last mentioned, except grandfather, grandmother, father and mother, exceeds the amount next mentioned, a further duty shall be paid.

(c) Where the whole amount so passing to one person, exceeds $50,000 and does not exceed $100,000, 1 per cent. For larger amounts, from 1½ to 5 per cent.

Where the aggregate value exceeds $5,000 and does not exceed $10,000 and any part thereof passes to any person in any other degree of collateral consanguinity to the deceased than is above described, or to any stranger in blood to the deceased, save as is above provided for, the same is subject to a duty of 6 per cent of the value: exceeds $10,000 and not $50,000, 10 per cent; exceeds $50,000 and not $1,000,000, 15 per cent, and over $1,000,000, 20 per cent.

The Succession Duty Office assumes to tax property of non-residents in the province at a rate fixed by the total value of the estate.

Suits. (See Actions, Affidavit, Appeal, Arrest, Attachment, Commission, Evidence, Execution, Exemption, Garnishment, Judgment, Replevin.)

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 on repayment of amount of purchase money paid by purchaser at tax sale with 10 per cent added.

Transfer of Shares. A tax of 2 cents must be paid by the transferor in money or stamps for every $100 or fraction thereof of the par value of the stock of a company upon every change of ownership by sale, transfer or assignment of shares or debenture stock made or carried into effect in Ontario.

Wages. Upon an assignment for the benefit of creditors, a seizure under execution, or the administration of an estate, the wages of all persons in the employ of the assignor, execution debter, or deceased are paid in priority to the claims of ordinary or general creditors to the extent of three months wages, and such persons rank as ordinary creditors for the remainder, if any, of their claims.

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, and in the presence of one another. 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. Change of domicile subsequently to the execution of a will, does not affect the validity of the will. 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.

SYNOPSIS OF

THE LAWS OF

PRINCE EDWARD ISLAND

RELATING TO

BANKING AND COMMERCIAL USAGES

Prepared and Revised by Messrs. McLeod & Bentley, Barristers, Charlottetown. (See Card in Attorneys' List.)

Acknowledgments. All deeds executed in the Province, must before registry, be either acknowledged by the party, or proved on oath by subscribing witness before a commissioner for proving deeds, or before the registrar. Deed executed abroad may be acknowledged by the parties, or proved on the oath of witness before the mayor of any city of the country where the deed is executed and certified under common seal of such city, or before any British consul, vice-consul, or consular agent, or before a judge of a court of record, or a notary public, certified under his official seal, or before a commissioner authorized by the government of the Province to take affidavits abroad in a court of record in the Province or to take acknowledgments of deeds abroad, or may be proved on the oath of subscribing witness before a justice of the peace in country where executed, the handwriting and official character of the justice to be certified under hand and seal of a notary public. (See Husband and Wife.)

Administration of Estates. There is one surrogate and probate court of the Province with office at Charlottetown. In this court letters of probate and administration are granted and estates of deceased persons usually administered. In cases of intestacy administration may be granted to the widow or next of kin; or if they neglect applying for letters of administration for thirty days after the death of the intestate, administration may be granted to a creditor after first citing the widow and next of kin and their refusing to administer. 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. If the personalty is insufficient to pay debts, executor or administrator may, by leave of the surrogate, sell the real estate. Estates of deceased persons may also be administered in the court of chancery, in which court lands are assets for the payment of debts in the event of the personal property of the deceased being insufficient. (See Taxes.)

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Affidavits. Affidavits to be made abroad, to be used in this Province for any purpose for which affidavits might be used if made within the Province, may be sworn before a judge of a court of record, or of a superior court, or of a county court, or before a British consul, vice-consul, or consular agent, or before the mayor of any city or town, or before a notary public, provided the signature and official character of person before whom taken be certified under the hand and seal of a notary public, or under hand of a judge, clerk, or prothonotary of a court of record or of a superior or county court, and the seal of such court: or under hand of the mayor of any city or town, and the corporate seal of such city or town: or under the hand and official seal of a British ambassador, envoy, minister, charge d'affaires, and secretary of embassy or legation exercising his functions in any foreign country, a British consul-general, consul, vice-consul, acting consul, pro-consul, and consular agent exercising his functions in any foreign place. The person before whom oath taken may certify to his own official character and qualification under his hand and official seal.

Aliens. Previous to confederation (A. D. 1873), aliens might hold real estate not exceeding 200 acres. Now, by Dominion statute, aliens may hold real and personal property of every description the same as natural-born British subjects, and succession may be traced through aliens; but an alien is not eligible for any public office. Aliens may be summoned to defend suits in this Province in certain cases. (See Courts.)

Arbitration. If in any suit in supreme court matter in dispute consists wholly or in part of matters of mere account, which can not conveniently be tried in ordinary way, court or judge may order such matter wholly or in part to be referred to an arbitrator appointed by the parties or to an officer of the court.

Arrest. A resident debtor can not be arrested by process out of supreme court, except by judge's order, to be made on affidavit on proof of debt, and showing facts and circumstances to satisfy judge that there is good and probable cause for believing that debtor, unless forthwith apprehended, is about to quit the Province with intent to defraud creditor or creditors. Non-resident debtor, if found in the Province, may be arrested upon an affidavit of debt being made showing that he is a non-resident. Capias from county court may issue for any sum over $8 and not over $150, upon an affidavit being made of amount of debt and of belief that debtor is about to depart from the Province to evade payment of his debts.

Assignments. (See Insolvency.)

Attachments. The property of an absent or absconding debtor may be attached upon affidavit being made of the debt and of the fact that debtor is so absent or absconding. Property of a resident debtor, except debts, etc. (see Garnishment), can not be seized or attached until after judgment.

Banks. The agent or manager of any bank established abroad carrying on business in this Province is to be assessed and taxed on the average volume of business done here. (See Interest, Corporations.)

Bills of Exchange and Promissory Notes. No days of grace are allowed on bills payable on demand, or on presentation, or in which no time for payment is expressed. Three days of grace allowed on bills payable at sight, or at a fixed period after sight, or after date, or on or at a fixed period after the occurrence of a specified event certain to happen. If last day of grace falls on legal holiday, then day next following not being such holiday shall be last day of grace. In all matters relating to bills and notes, following days are legal holidays: Sundays, New Year's Day, Good Friday, Easter Monday, Victoria Day (May 24th), Christmas Day, The Birthday (or the day fixed by proclamation for the celebration of the birthday) of the reigning sovereign, and if such birthday is a Sunday, then the following day, 1st of July, and if 1st falls on Sunday, then 2d of July), any day appointed by proclamation for a public holiday, general fast, or general thanksgiving, Labor Day (the first Monday in September), day following New Year's, Victoria Day, or Christmas if these days fall on Sunday. Foreign bills must be protested, but inland bills do not require protest.

Brokers. Stock brokers are liable to pay an annual tax to the Provincial Treasurer and are also required (under penalty) to file with the Provincial Treasurer of the Province a copy of the charter and regulations (or proposed charter and regulations) of, and an affidavit or statutory declaration giving certain information, concerning every Company whose debentures, bonds, stocks or shares are about to be sold or purchased or offered for sale or purchase by such stock holder.

Chattel Mortgages and Deeds of Trust. Absolute bills of sale or transfer of chattels are void (except as between grantor and grantee) unless grantee forthwith upon execution thereof take actual possession of chattels and grantor ceases to have possession. Chattel mortgage requires to be registered and to have an affidavit indorsed made by the grantee or his agent to the effect that grantor is really indebted to the grantee in the amount expressed in the mortgage, or that a consideration of nature and amount therein expressed really and truly exists, and that to the best of his knowledge and belief the mortgage was not executed for the purpose or with the intent of protecting the property therein described from creditors of the grantor, or of defrauding the creditors of the grantor or any of them. Statutes of Elizabeth (13 Eliz. chap. 5, and 27 Eliz. chap. 4) are in force. Chattel mortgages or other conveyances or transfers (except such as are given for a present actual bona fide payment or advance of money, or made in consideration of any present actual bona fide sale or delivery of goods or other property) are void if given by a debtor in insolvent circumstances with intent to give an undue preference over other creditors or to prejudice or delay any of his creditors.

Contracts required to be in writing are: 1, negotiable instruments; 2, any promise by an executor or administrator to answer damages out of his own estate; 3, any promise to answer for the debt, default, or miscarriage of another person; 4, any agreement made upon consideration of marriage; 5, any contract of sale of lands or any interest in lands; 6, any agreement not to be performed within a year from the making thereof; 7, agreement for sale of goods, wares, and merchandise of value of $32 and upwards, unless accompanied by acceptance and receipt of goods by buyer, or his giving something in earnest to bind the bargain or in part payment. Leases for three years and under may be made verbally. A promise made after full age to pay a debt contracted during infancy must be in writing and signed. A representation as to character, credit, etc., made to enable another to obtain money or credit is not actionable unless in writing and signed by the party to be charged therewith. Contracts against public policy or morality are void. Persons incapacitated from contracting are infants, lunatics, persons of unsound mind. Married women may by contract bind their separate estates.

Corporations may be created by special Dominion or Provincial statute, or by letters patent issued under the Dominion or Provincial companies acts. The liability of shareholders is usually limited to the amount of shares subscribed, and when the shares are paid in full shareholders are discharged from further liability. Certain taxes are imposed upon foreign insurance and other companies transacting business within the Province.

The Statute further provided that such Company should transmit to the Provincial Secretary in the month of January in each year a statement showing all changes in the Directors, officers and agents of the Company that have taken place during the preceding year.

It has recently been decided by the Supreme Court of this Province that the statute of April 24, 1913 governing corporations was passed to protect the Public in dealing with such Companies, and that such Companies were prohibited from doing business in this Province until the statement required by the Act had been filed. Consequently any business transacted by such Company without having filed the required statement was illegal and no action could be brought in respect to it. The statute referred to was repealed on the 24th April, 1915 by the Companies Tax Act but the repealing statute preserves the penalties incurred by such Companies during the time they were in default and the business carried on in the Province in the two years during which the statute was in force by such companies as failed to comply with the requirements of the Act would thus appear to be invalid.

By the Companies Tax Act passed on the 24th April, 1915 certain taxes are imposed upon companies doing business in the Province. By this statute every Company liable to pay taxes is required, before carrying on business in the Province, to file with the Provincial Treasurer:

(1) A true copy of the charter and regulations of the company verified in manner satisfactory to the Provincial Treasurer and showing that the company by its charter has authority to carry on the business being carried on or about to be carried on in the Province, and if any instrument included in the aforesaid is not written in the English language, a notarially certified translation thereof; and shall also at the same time, and on the first day of April in each year thereafter, without any notice or demand therefor file with the Provincial Treasurer:

(2) An affidavit or statutory declaration that the company is still in existence and legally authorized to transact business under its charter, and containing information showing:—(a) The corporate name of the company; (b) How and under what special or general Act the company was incorporated; (c) Notice of the place where the head office without the Province is situate; (d) Notice of the city, town and county in this Province where the head office of the company in this Province is situate or proposed to be situate; (e) The amount of the authorized capital stock of the company; (f) The number of shares into which it is divided; (g) The names, addresses and occupations of each of the directors and officers of the company, and of the agent or person in charge of the company's business in this Province; (h) The time of the existence of the company if incorporated for a limited period; (i) In the case of a limited company, that the company is limited; (j) The amount of stock subscribed or issued and the amount paid up thereon; (k) In the case of an insurance company a copy of the last balance sheet and auditor's report thereon.

This last mentioned statute declares that non-compliance with its provisions as to filing such affidavit, declaration or document subjects the Company to liability for payment of a fine but does not prohibit the Company from carrying on business.

Costs. No attorney's costs or counsel fee are payable or can be recovered against a debtor on any action brought in the county courts. (See Courts.)

Courts. For the recovery of debts county courts have jurisdiction where debt does not exceed $150. Judge tries all cases without a jury, and no solicitors' or attorneys' fees are allowed. Sixteen circuits are established throughout the Province, at each of which a court is held in August, October, December, and March. A judgment in the county court can not affect land or title to land. Supreme court has jurisdiction in all actions at common law (except that no action can be brought for debt when amount is under $32). All actions are commenced by writ of summons. When claim is for a liquidated amount or debt, summons may be specially indorsed, and if defendant (resident in Province) fails to appear within eight days after service judgment by default may be entered and execution may issue in twelve days after last day for appearance. Summons may be served on a British subject residing out of the Province in respect of a cause of action arising within jurisdiction or in respect of the breach of a contract made within the jurisdiction. Proceedings in like cases may be brought against any person residing out of Province though not a British subject, but instead of a summons being served upon him he is served with a notice of the summons having been issued. In these cases time for appearance will be regulated according to distance from Province. Upon a minute of a judgment in supreme court being filed such judgment binds all interest in land then held by defendant and also such as he may acquire until judgment is paid. Such judgment will take priority over a subsequent deed or mortgage, and against a previous deed or mortgage, but registered subsequently. A chancery court also exists having full equitable jurisdiction.

Creditors' Bills. There is no statute authorizing a creditors' bill for general discovery and in aid of common law execution, but statutes enable a judgment creditor to examine the judgment debtor on oath before a judge touching his estate and effects and as to the disposition he has made of his property since the debt on which judgment was recovered was contracted, and as to what property he still has and what debts may be owing to him. Proceedings to annul fraudulent conveyances by a debtor may be taken by bill in equity under the English statutes of Elizabeth. Conveyances and securities made or given by a debtor in insolvent circumstances with intent to give a preference to one or more creditors over other creditors may be impeached and annulled under a Provincial statute. A creditor may also file a bill in equity for administration of the estate of a deceased debtor. (See Insolvency.)

Deeds, Mortgages, and Conveyances of real property must be made under seal and should be registered in order to prevent a later grantee or encumbrancer from obtaining priority by prior registration. The execution of deeds must be proved before registry by the acknowledgment of the grantee or by the oath of a witness before the proper officer, and his certificate of such acknowledgment indorsed thereon. Commissioners for taking such acknowledgments to deeds are appointed and where there is no such commissioner the execution of the deed may be proved before a notary public, certified under his official seal. (See Acknowledgment.) A married woman of full age may convey her interest in land by deed executed with her husband and a proper acknowledgment apart from her husband before a justice of the peace or a notary public that same was signed by her of her own free will and consent had without any compulsion, and that she was aware of the nature of the contents thereof. Any separate property of a married woman acquired since 1896 may be disposed of by her as if she were not married. Powers of attorney executed by a married woman authorizing another to convey land must describe the land to be conveyed with a sufficient certainty. No more than one witness is necessary to the execution of any deed unless same is executed in pursuance of a power of appointment specially directing more than one witness to be necessary. A wife should join her husband in conveying land in order to bar her right of dower. (See Dower.)

Depositions may be made by oath or by affirmation or solemn declaration. Witnesses abroad may have their evidence in an action taken by commission before a commissioner to be appointed by the judge or court who grants the order for commission. Witnesses within the Province who are sick, aged, or infirm, may give evidence in an action on commission on a proper application being made for the purpose. (See Affidavits.)

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Descent and Distribution of Property. In cases of intestacy land (subject to widow's right of dower) is divided among all children or their legal representatives in equal shares, and in case there be no children or their representatives then to the next of kin in equal degree, but no representation admitted among collaterals after brothers' and sisters' children. If after death of a father, any of his children die intestate without wife or child in the lifetime of the mother, every brother and sister of the intestate shall have an equal share with her. When a brother and sister of the whole blood and a brother and sister of the half-blood shall be such next of kin, the distribution shall be confined to the brother and sister of the whole blood. When the next of kin shall be a brother or sister and a grandfather or grandmother, distribution shall be confined to the brother or sister or the representatives of them. The father may be heir to his child dying without issue, and shall be preferred as heir to such child before a brother or sister of such child. Personal estate (after payment of all debts) is distributed as follows: One-third to widow and residue in equal proportions amongst children and those legally representing them; if no children or representatives, then one-half to widow and residue amongst next of kin. No representation among collaterals after brothers' and sisters' children.

Dower. A wife is entitled to dower by the common law, and by statute the right is extended so as to attach to the husband's equitable estate of inheritance in possession and to estates partly legal and partly equitable. She is also entitled to dower when the husband was entitled to a right of entry or action in any land in which she would have had dower had he recovered possession thereof. Where a wife of unsound mind has a right of dower in her husband's land, the land may be sold freed from her dower by order of a judge of the supreme court.

Executions. Goods of defendant are bound by an execution out of supreme court from time same is placed in sheriff's hands. An execution from county court does not affect defendant's goods until same are actually levied on. Land may be sold under an execution issued out of supreme court after six months notice of such sale in manner provided by statute.

Exemptions. The wearing apparel and bedding of debtor and his family, and the tools and implements of his trade, one cooking stove and one cow, in all amounting to $50, are exempt from seizure under county court execution. The goods exempt from seizure under an execution out of supreme court are the necessary wearing apparel and bedding of debtor and family and the tools and instruments of his trade or calling, $16 in money and his last cow.

Foreign Judgments. The record of a judgment against a resident of this Province, obtained in any other province or country, is not conclusive evidence, in any suit to be brought on such judgment within this island, of the correctness of such judgment, but the defendant may dispute the facts or cause of action upon which such judgment is founded as fully as if such foreign judgment had never been given.

Fraud. Deeds obtained by fraud may be annulled by the court of chancery if impeached in due time and before innocent purchasers, for valuable consideration without notice of the fraud, have acquired rights. Judgments may also be set aside where obtained by fraud. (See also Insolvency.)

Garnishment. All sums of money, whether liquidated or unliquidated, payable to a debtor for any cause of action other than personal torts or wrongs, can be attached by a creditor either before or after judgment

Insolvency. Although the Dominion parliament has jurisdiction to pass a general law applicable to the provinces in cases of bankruptcy or insolvency, no such law now exists. By a statute of the Province, when a debtor is in insolvent circumstances or unable to pay his debts in full, or knows himself to be on the eve of insolvency, and voluntarily confesses a judgment in favor of a creditor, or makes any gift, conveyance, assignment, transfer, delivery, or payment of goods or chattels, or of bills, shares, or other property, real or personal, with intent to defeat, hinder, delay, or prejudice any of his creditors, or with intent to give any of his creditors an unjust preference over his other creditors, such confession of judgment deed, gift, conveyance, pavment, etc., shall, as against his creditors who are prejudiced, delayed, or injured, be utterly void; such transaction, if impeached within sixty days, shall be presumed to be made with such intentions, if the effect of such transaction is to give to a creditor a preference over others and whether the grantee has any knowledge of the grantor's insolvency or of his intent or not. This does not, however, invalidate any gift, conveyance, assignment, or delivery of any property or any security executed bona fide for a present actual bona-fide payment in money, or for a present actual bona-fide sale or delivery of property, if the money or property so paid, sold, or delivered bear a reasonable value to the consideration therefor. A debtor may make a general assignment for the general benefit of his creditors, ratabl and without prejudice.

Interest. Parties may contract to pay interest at any rate agreed on. If no rate is mentioned, bills and notes carry interest after maturity at the rate of 5 per cent; but as to liabilities existing on and prior to July 7, 1900, the legal rate of interest, unless otherwise agreed, is 6 per cent. "Moneylenders" are prohibited from charging over 12 per cent per annum and interest shall be reduced to 5 per cent from the date of any judgment recovered for any amount lent.

Jurisdiction. (See also Courts.) The county courts have jurisdiction in all actions ex contractu and ex delicto where the debt or damage claimed does not exceed $150, except in the following actions: Detinue, replevin, or ejectment, or where the title of lands is brought in question, or in which the validity of any devise, bequest, or limitation is disputed; criminal conversation or seduction, breach of promise of marriage, actions against an executor or administrator, (but executors or administrators may bring actions in the said courts), or any action against a justice of the peace for anything done by him in the execution of his office, or any action upon a judgment in the supreme court. The supreme court has jurisdiction in all actions for $32 and upwards.

Liens. Lien notes and hire receipts given for manufactured goods or chattels (except "household furniture," which, however, does not include pianos, organs, or other musical instruments) are not valid against subsequent purchasers or mortgagees without notice for valuable consideration, unless at the time possession is given to the bailee the name and address of the manufacturer, bailor, or vendor of the same is printed, stamped, or engraved thereon, or otherwise plainly attached thereto. But this does not invalidate any note, receipt, or instrument evidencing the bailment or conditional sale, which is filed within ten days from its execution with the prothonotary of the court in the county in which the bailee or purchaser resides.

Limitations. On simple contracts, suits must be commenced within six years from time the debts fall due, or from the date of the last payment on account of such debt. A promise or acknowledgment in writing, signed by the debtor, is sufficient to take simple contracts out of the statute, and time will then begin to run from the date of such written promise for 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 or giving a discharge for the same, unless in the meantime 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 Woman is capable of acquiring, holding, and disposing of any real or personal property in the same manner as if she were a femme sole, and may enter into contracts, and may render herself liable in respect and to the extent of her separate property.

Notaries Public are appointed for the Province by the lieutenant governor, and have authority to take acknowledgments of married women, prove the execution of documents, protest bills of exchange and ships' protests, etc.

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.

Stock-brokers. (See brokers.)

Taxes. The real and personal property of a deceased person if exceeding $3,000, are subject to a succession duty varying from 1 1-2 per cent to 7 1-2 per cent, according to the amount of the estate, and to what parties it passes. Stockbrokers with head office without the Province doing any business here will be taxed $150 a year. (See Banks.)

Wills. Wills must be signed in presence of two witnesses present at the same time, who shall in presence of the testator and in the presence of each other sign their names as witnesses. A witness to a will can take no benefit under it, but an executor named in will may be a witness.

SYNOPSIS OF

THE LAWS OF QUEBEC

RELATING TO

BANKING AND COMMERCIAL USAGES

Revised by MESSRS. BROWN, MONTGOMERY & MCMICHAEL, Advocates, Montreal. (See Card in Attorneys' List.)

Acknowledgments. The proof of real estate instruments is made by affidavits of witness to execution. (See Affidavits.)

Actions may be brought in the courts of the province by any party, whether a resident or not, who has a civil right to enforce, or who seeks a remedy for an injury suffered. A married woman must be authorized by her husband before she can institute an action, and when she is sued, her husband must be also made a party to the action in order to authorize her to defend the suit. A minor is always represented by his tutor (guardian) except when he brings suit for the recovery of his wages, a person interdicted for insanity, prodigality or drunkenness by his Curator. The inhabitants of the province may be sued there for the fulfilment of obligations contracted by them in foreign countries, even in favor of a foreigner (civil code, art. 28). Non-resident plaintiffs may be required to give security for costs ranging from $15 to $400, and to file a power of attorney authorizing the solicitors to institute the action. The names in full of the plaintiffs and their places of residence and occupation, and the residence of the defendant must be given in writs, as also the partnership name when a firm is concerned. In the matter of corporations, the principal place of business should be mentioned. Married women and widows may be described as defendants under the surnames of their husbands or deceased husbands respectively, adding the words "wife of" or "widow of" and a sufficient designation of the husband. Any service upon the heirs of a person deceased within the previous six months may be made upon them collectively, without mentioning their names or residences, at the former domicile of the deceased.

Affidavits. Within the province must be taken before a judge or officer of the court, or a mayor, or a commissioner of the superior court for the province or a notary public. In Great Britain and Ireland, before the mayor, a Quebec commissioner, a commissioner appointed by the lord chancellor to receive affidavits in England, or a notary public. In British possessions, before the mayor, a Quebec commissioner or a judge of a superior court. In a foreign country, before the mayor or chief magistrate of any city, borough, or town under the common seal, or a British consul or consular agent, or a Quebec commissioner. They can only be taken in connection with judicial proceedings, or in cases especially provided by statutes, otherwise officer receiving them is criminally liable. Solemn declarations before any such functionary have the same force and effect in any but judicial proceedings.

Aliens have a right to acquire and transmit property (except shares in British ships) in the same manner as British subjects. Although not resident in Canada, they may sue or be sued in its courts for the fulfilment of obligations contracted toward or by them, even in foreign countries, provided a legal service can be effected upon them within the province. (See Actions.) They cannot, however, hold any public office nor exercise the franchise. They may be naturalized after a residence of three years. (See Actions, Corporations.)

Arrest. Arrest for debt does not exist in this province. But vide Capias and Attachment.

Assignment and Insolvency. An insolvent trader cannot give one or more creditors a preference over his other creditors. No voluntary abandonment of property can be made in the absence of capias or a demand of assignment unless with the consent of all the creditors. Every trader who has ceased his payments, may be required by any unsecured creditor for a sum of $200 or upward, to make an abandonment of his property for the benefit of his creditors. The court appoints a curator, after taking the advice of the creditors, at a meeting called for that purpose, 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 the revised statutes of Canada, 1906, Ch. 144.

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Attachment and Capias. A person may, even before judgment, upon affidavit, attach 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 cannot be issued for a sum less than $50, but his property may be attached before judgment for a debt of $5. To justify a capias, the debt must be a personal one, and created or payable within the provinces of Quebec or Ontario. A previous order from a judge is required if the capias is demanded for unliquidated damages. Women, priests or ministers, and septuagenarians are not liable to be capiased, except after judgment in specified cases.

Banks. Banks are created by act of parliament of Canada and governed by federal law only (the bank act R. S. Canada 1906, Ch. 29.) The minimum capital is $500,000, and that amount must be subscribed and $250,000 paid in to minister of finance before it can obtain a certificate to do business. The latter amount is returned less $5,000 retained to secure the note issue. Majority of directors must be British subjects. Shareholders are liable to creditors for an amount equal to the sum unpaid on their shares plus a further sum equal to the par value of their shares. Dividends are payable quarterly or half yearly. No dividend shall exceed 8 per cent until bank has a reserve fund equal to 30 per cent of paid up capital. Notes issued are in sum of $5.00 or in multiple of $5.00, and total issue shall never exceed amount of unimpaired paid up capital. Notes of $1.00, $2.00 and $5.00 are issued by the government. Banks may not advance on mortgages of land, or ships, or upon security of its own stock, or goods, wares, and merchandise. Banks are not allowed to recover more than 7 per cent for interest or discount.

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

Chattel Mortgages do not exist in Quebec. Movable property is not susceptible of hypothecation except as provided for shipping. (See Deeds and Mortgages, and Liens and Privileges.)

Corporations are created by act of the parliament of Canada or of the legislature of Quebec, by special charter, or under the companies' acts of Canada, or of the province of Quebec. Share holders, except in case of banks, are only liable to the amount of their shares, and when these shares are paid in full, they are discharged from further liability, but directors are liable for wages of employes within certain limitations. Provision has been made for the winding up of joint stock companies under the winding-up act. (R. S. Canada 1906, Ch. 144.) Aliens can hold stock and are eligible for directors in any joint stock company. Foreign commercial corporations may transact business, sue, and be sued here. Foreign insurance companies are required to deposit with the government a certain amount in bonds or cash before they are permitted to do business in the Dominion. Corporations chartered outside of the province are required to obtain a license before carrying on business in the province and for such license a fee is payable based on the capital. They can hold real estate to the same extent that domestic corporations can and must be registered in the same manner as partnerships (see that word) under penalty.

Courts. The circuit court has original jurisdiction where the amount demanded is less than $100; the superior court where it is $100 or upward. Generally an appeal can be taken to the court of review in cases over $100 or court of king's bench in cases over $500. An appeal can also be had from the court of king's bench to the supreme court of Canada in all cases over $2,000, and to his majesty's privy council, in England, in all cases over $5,000, and in cases for smaller amounts to both courts, if questions of titles to land or if future rights are involved, or if a fee due to his majesty is claimed by the action.

Deeds or Conveyances. There is no special form required in the drafting of deeds or conveyances except in regard to real estate. No seal is necessary. If the parties can sign their names no witnesses to the signatures are necessary. The general rule can be laid down that deeds affecting chattels or moveables when executed outside of the Province should be executed in the form required by the law, where they are so executed. In relation to the conveyance of real estate when the deed is passed in the Province, it must be executed before a notary public who keeps the original and delivers copies which are accepted as proof of the contents thereof and signatures to the original deed, without any extrinsic proof. When deeds relating to the conveyance of real estate are executed outside the Province, they should be executed before one or two witnesses, and accompanied by an affidavit as to the execution of the deed, which affidavit must be attested according to the rules herein laid down. (See Affidavit, Mortgages and Registrations.)

Dower. Legal dower which results from marriage when no contract to the contrary, consists of the usufruct or life interest for the wife and the ownership for the children, of one-half of the immovables which belonged to the husband at the time of the marriage, and of one-half of those which accrued to him during marriage from his father or mother or other ascendants. This right opens only at the death of the husband, unless the contract of marriage provides for dower, being exigible on separation of property. Conventional dower exists on movable or immovable property when provided for by the marriage contract. It should be registered; in the case of legal dower registration of the marriage certificate, with description of the immovable subject to it, should be made. In the case of conventional dower, registration of the contract of marriage is also required.

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 an attachment before judgment. Except for taxes, executions cannot issue against immovables unless the judgment is for a sum amounting to or exceeding $40, without costs.

Exemptions from Seizure. The debtor may withdraw from seizure, the bed, bedding, and bedsteads in use by himself and family; their ordinary and necessary wearing apparel. Two stoves and their pipes, one pot-hook and its accessories, one pair of andirons, one pair of tongs, and one shovel. All cooking utensils, knives, forks, spoons, and crockery in use by family, two tables, two cupboards or dressers, one lamp, one mirror, one washing stand with its toilet accessories, two trunks or valises, the carpets or matting covering the floors, one clock, one sofa and twelve chairs, to the extent of $50.00. All spinning wheels and weaving looms intended for domestic use, one axe, one saw, one gun, six traps, fishing nets, lines, and seines in common use, one tub, one washing machine, one wringer, one sewing machine, two pails, three flat irons, one blacking brush, one scrubbing brush, one broom. Fifty volumes of books, and all drawings executed by himself and family for their use; fuel and food sufficient for three months. One span of plough horses or a yoke of oxen, one horse, one summer vehicle and one winter vehicle, and the harness used by a carter or driver for earning his livelihood, one cow, two pigs, four sheep, the wool from such sheep, the cloth manufactured from such wool, and the hay and other fodder intended for feeding the said animals; one plough, one harrow, one working sleigh, one tumbril, one hay-cart with its wheels and all harness necessary and intended for farming purposes. Books relating to the profession, art, or trade of the debtor to value of $200. Tools and implements, or other chattels ordinarily used in his profession, art, or trade to value of $200. Bees to the extent of fifteen hives. The following are unseizable: Consecrated vessels and things used for religious worship. Family portraits. Immovables declared by a donor or testator or by law, to be exempt, and money or objects given upon condition of their being exempt. Alimentary allowances granted by a court, and sums of money or pensions given as alimony, even though the donor or testator has not expressly declared them to be exempt; they may, however, be seized for alimentary debts. Vessels, boats, and other fishing craft, tackle nets, seines, lines, or other fishing apparatus, and provisions belonging to any fisherman, and necessary for his subsistence and that of his family and for his fishing operations; such effects may, however, be seized and sold for their purchase price, but not between the first day of May and the first day of November. Pay and pensions of persons in the army or the navy. Pensions granted by institutions to their employes, by means of retiring funds or pension funds established among the said employes and instalments paid or to be paid to form such pension funds and to give a right to the benefits arising therefrom. Contingent emoluments and fees due to ecclesiastics and ministers of worship for current services and the income of their clerical endowment. Old age annuities created by the act of parliament of Canada, 7-8 Edw. VII., C. 5. Salaries of public officers, except for public officers and employes of the province, are seizable for: (a) One-fifth of monthly salary not exceeding $1,000 per annum. (b) One-fourth of every monthly salary exceeding $1,000, but not exceeding $2,000 per annum. (c) One-third of every monthly salary exceeding $2,000 per annum. Salaries of municipal officers and employes and of city or town assessors in incorporated cities or towns, except as to the proportions mentioned above. Four-fifths of the salary, remuneration or earnings of members of the corporation of pilots for and below the harbor of Quebec for the pilotage of vessels. All other salaries and wages, for: (a) Four-fifths when they do not exceed $3 per day. (b) Three-quarters when they exceed $3 but do not exceed $6 per day, and (c) Two-thirds when they exceed $6 per day.

Husband and Wife. Parties may before marrying remove themselves from the effect of the general laws of the province governing their property, as regards rights created by marriage, by entering into a marriage contract, which must be made in notarial form and is irrevocable. In this contract they may bind themselves by all kinds of agreements not contrary to public order or good morals. They cannot in any way after marriage, depart from the contract, even to confer benefits on each other, except that the husband may insure his life for the benefit of his wife or children, and such insurance can neither be seized by nor assigned to anybody else unless both husband and wife join in an assignment. If no marriage contract was entered into, the law of the matrimonial domicile governs. If when marrying, the husband's intention was to settle in this country and make his domicile here, and he does so, the law of this province would govern. When there is no antenuptial contract of marriage, there exists, community of property, which is in the nature of a partnership, and of which the husband is the head and has the sole control. Immovable property belonging to either consort before marriage, or inherited from father, mother, or other ascendant during marriage, remains the private property of such consort, and is excluded from the community. A married woman cannot become a public trader without the authorization of her husband. With this authorization she may obligate herself for all that relates to her commerce, and in such case she also binds her husband, if there be community between them. A wife, who is not a public trader, cannot bind herself either with or for her husband, otherwise than as being common as to property. Separation as to bed and board, which does not dissolve the marriage tie, is obtained from the tribunals for cause. It involves separation as to property. Divorce is only granted by special act of parliament. Every married person carrying on business must register the particulars of the financial relations between him and his wife, and whether they are common or separated as to property.

Interest. Any interest may be charged which the parties may lawfully agree upon. However, in loans of less than $500, by a professional money lender wherein the interest charged is more than 12 per cent per annum, the court may reopen the transaction and reduce the amount, and, in any event, give the debtor a delay to pay the interest. Money-lenders charging more than 12 per cent interest are liable to one year's imprisonment or $1,000 penalty. If there is no agreement upon rate, the law fixes the rate of interest at 5 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, cannot receive more than 6 per cent. Banks are not subject to any penalties for usury, but cannot recover more than 7 per cent.

Judgments are valid for thirty years. In regard to movables, executions thereon may issue in eight or fifteen days and sale effected in short delays. The registration of a judgment against the immovable property of the debtor operates as a mortgage claim thereon in the creditor's favor. It takes about a week to obtain judgment in either the superior or circuit court if the action be not contested.

Legislature (meeting of). According to Section 86 of the British North America Act, 1867, there shall be a session of the Quebec Legislature once at least in every year, so that twelve months shall not intervene between the last sitting of the Legislature in the province in one session and its first sitting in the next session. No special date for the regular meeting of the Legislature is fixed by law; it usually sits in the month of March.

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 of preference on the proceeds of the sale; but these rights must be exercised within thirty days from the date of delivery. But, if the debtor is not insolvent, the creditor can only revendicate subject to the conditions; that the sale is not made on credit, that the thing sold is still intact and in the same condition, that it has not passed into the hands of a third party who has paid the price, that the revendication be exercised within eight days of the delivery, or thirty days in case of insolvency. He has also the right to demand the dissolution of the sale, for non-payment of the price, if the thing sold remain in possession of the buyer: but in case of insolvency, this right can only be exercised during the thirty days next after delivery. Sale is complete by the consent alone of the parties, and before delivery. 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 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 under a translatory title as proprietor, and in good faith, of an immovable for ten years, covers defects of title. Actions in restitution of minors for lesion, in rectification of tutors' accounts, and in rescission of contracts for error, fraud, violence, or fear, are prescribed by ten years. After the same delay architects and contractors are discharged from warranty of work done or directed. Actions on bills of exchange, promissory notes, accounts, and generally all claims of a commercial nature, are prescribable by five years. Prescription of corporate movables takes place after the lapse of three years, reckoning from the date of possession, in favor of a possessor in good faith. There are also certain short prescriptions of two years, and one year, and statutory limitations. Prescription may be renounced or interrupted.

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Married Women. (See Husband and Wife.)

Mortgages and Registration. The common law mortgage does not exist but has its equivalent in the "hypothec" which constitutes a charge or lien on immovables giving to the creditor the right to bring the property to judicial sale and to be paid by preference on the proceeds. The deed creating the hypothec must be passed before a notary public in this Province. Other deeds affecting lands if executed in the Province should be passed before a notary public to allow of their registration in a convenient manner. If executed elsewhere, such other are valid if executed according to the laws of the place where they are passed, but the signatures to the same must be properly authenticated to admit of registration. 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. Hypothecs can only be granted on real estate; they can not be given on movables or chattels except as provided in the special statutes respecting shipping and banking. Effects may, however, be pledged by being placed in the hands of a creditor to secure his debt, the lien created by the pledge exists only so long as the thing remains in the hands of the creditor, or of a third party agreed upon by the creditor and debtor. Judgments give liens only on the real property against which they are registered.

Notes and Bills of Exchange. Bills of exchange and promissory notes must be made payable in money, and must be unconditional and absolute. They are transferable by indorsement and delivery, or, when payable to bearer, by delivery only. When a particular place of payment is mentioned, not necessarily a bank, presentment must be made there, and if not paid, the note must be protested for non-payment in order to hold the endorsers liable. 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 bill of exchange may be fixed by the acceptor in his acceptance. The commercial law of Quebec is founded mainly on the French law, but a great many details thereof come from the old English law. Three days of grace are allowed on all bills and notes except those payable on demand. 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 to the costs of exchange and re-exchange. Indorsers and other parties secondarily liable are only held by protest and notice.

Partnerships must be registered, as also must all persons carrying on business alone, under a name different from their own, in the office of the registrar and the prothonotary in each county and district where they carry on business. Joint stock companies must be registered in the same manner. Persons doing business under name of another, the word "registered" must be added. The laws applicable to commercial partnerships are derived from the French and English commercial laws. Partnership property must go to payment of firm debts in preference to debts of a 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: 1. The name or firm of the partnership. 2. The general nature of the business. 3. The names and residences respectively of all the general and special partners. 4. The matrimonial status of the partners. 5. The amount of capital contributed by each. 6. 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 debts, but the special partners are only liable to the extent of the amount they concontributed. If above statement not registered all partners are jointly and severally liable. In general partnerships all partners are jointly and severally liable.

Succession. In case of intestacy children or their descendants succeed to their ascendants without distinction of sex or primogeniture, and whether the issue of the same or different marriages. If no descendants, the parents get half the estate and the remainder goes to the brothers, sisters, nephews, and nieces in the first degree. If no brothers, sisters, nephews, or nieces in the first degree, the parents divide the estate equally between them, and if no parents, the succession is divided equally between the nearest ascendants of the paternal line and the nearest ascendants of the maternal line. If the parents have previously died, the brothers, sisters, nephews, and nieces in the first degree exclude the other ascendants and collaterals. The division is made equally among them if they all be born of the same marriage, but, if not, an equal division is made between the two lines of the deceased, paternal and maternal, those of the whole blood sharing in each line, and those of the half blood sharing each in his own line only. If there be brothers, sisters, nephews, and nieces on one side only, they exclude all the relations of the other line. If the deceased have left no issue, nor father nor mother, nor brothers nor sisters, nor nephews, nor nieces, in the first degree, and only ascendants in one line, the nearest ascendant takes one-half of the succession, and the nearest collateral relation on the other side gets the other half. If no ascendant, the nearest collateral relation of the paternal line gets one-half, and the other goes to the nearest of the maternal line. Relations beyond the twelfth degree do not inherit, and, in that case, the succession belongs to the surviving consort. In default of a surviving consort it falls to the crown. These different persons represent the deceased, and claims against his estate should accordingly be made against them.

Wills. Wills may be made in three different forms: 1. In authentic form, to wit, passed 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. 2. In holograph form, to wit, wholly written and signed by the testator; these wills require no witnesses, and a will so made in a foreign country disposing of property in the Province of Quebec would be valid in the latter, provided the testator has his domicile in the Province, or that the law of the country where the will is made recognizes this form of will. 3. 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, and in the presence of each other. 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 movable 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 by the terms of the will to immovables and beyond the year and the day allowed by law. Wills executed in a foreign country are void in the province of Quebec, unless executed according to the laws of Quebec, or according to the forms required by the laws of the country where they are made.

SYNOPSIS OF

THE LAWS OF SASKATCHEWAN

RELATING TO

BANKING AND COMMERCIAL USAGES

Compiled by CROSS, JONAH, HUGG & FORBES, of the Saskatchewan Bar, Regina, Saskatchewan. (See card in Attorneys' List.)

Note. The laws existing in the Northwest Territories prior to the formation of the two Provinces are still in force with alterations made by the Provincial Statutes.—Editor.

(Revised to July 1st, 1915.)

Generally all laws and all orders and regulations made thereunder, so far as they are not inconsistent with anything contained in this Act, or as to which this Act contains no provision intended as a substitute therefor, and all courts of civil and criminal jurisdiction, and all commissions, powers, authorities and functions, and all officers and functionaries, judicial, administrative and ministerial, existing immediately before the coming into force of this Act in the territory hereby established as the Province of Saskatchewan, shall continue in the said Province as if this Act and the Alberta Act had not been passed: subject, nevertheless, except with respect to such as are enacted by or existing under Acts of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, to be repealed, abolished or altered by the Parliament of Canada, or by the Legislature of the said Province, according to the authority of the Parliament or of the said Legislature. 4–5 Ed. VII. c. 42, s. 16 (part), the Saskatchewan Act.

Assignments for the benefit of creditors must be made to a trust company authorized to act under the provisions of the Assignments Act. An assignment of "all my personal property and all my real estate, credits and effects which may be seized and sold under execution" or words to the like effect is a sufficient assignment and vests the property in the assignee except such as is exempt under execution. Provision is made by statute for a pro rata distribution between creditors of the property assigned, and the act applies to an assignment, whether expressed to be made under it or not. Meetings of creditors are provided for by the statute. All questions at meetings are to be decided by a majority of votes calculated as provided by statute. Creditors in proving claims must state whether they hold security. If the security be on the estate of the debtor, or on the estate of a third party for whom the debtor is secondarily liable, the creditor must value the security, and the creditors may consent to his ranking, after deducting such valuation; or an assignment may be required of the security at an advance of ten per cent, to be paid out of the estate as soon as the assignee has realized the security, and the creditor in such case may rank for the difference. If the creditor claims on a negotiable instrument on which the debtor is only indirectly or secondarily liable, and which is not mature or exigible, such creditor is to value the liability of the person primarily liable; but after the maturity of the liability and its non-payment, the creditor may amend and re-value his claim. Claims must be proved by affidavit and vouchers must be furnished. A creditor holding a claim not accrued may prove and vote. Interest is to be deducted in fixing the amount of such a claim. The law of set-off applies to claims against the estate. Employees are paid three months' wages in priority to other claims. A landlord has a preferential lien for rent on distrainable effects. The preference is restricted to arrears of rent due during the period of three months next preceding and for three months following the execution of the assignment. His right to rank as ordinary creditor for unexpired term of lease is restricted to rent for six months following execution of assignment if he has no preferential lien for any period subsequent to the assignment, and if he has any such preferential lien then to the difference between the period for which such lien exists and said six months.

Attachment. Of Debts. The plaintiff in any action for a debt or liquidated demand before or after judgment, and any person who has obtained a judgment or order for the recovery or payment of money may issue a garnishee summons, which is issued upon the plaintiff or judgment creditor, his advocate or agent filing with the clerk an affidavit showing the nature and amount of the claim or judgment, and swearing positively to the indebtedness and stating to the best of the deponent's information and belief the proposed garnishee (naming him) is indebted to such defendant or judgment debtor. Service of such garnishee summons shall bind any debt due or accruing due, from the garnishee to the defendant or judgment debtor. No debt due or accruing to a mechanic, workman, labourer, servant, clerk or employee for or in respect of his wages or salary, shall be liable to seizure or attachment unless the same exceeds $25, and then only to the extent of the excess. This exemption of $25 does not apply to debts for board and lodging. If the garnishee disputes his liability he shall enter a statement to that effect with the clerk; otherwise twenty days after service judgment may be signed against him.

Bills of Sale and Chattel Mortgages. Bills of Sale and Chattel Mortgages not accompanied by an immediate delivery and an actual change of possession of the things sold or mortgaged, must be registered within 30 days from execution, with an affidavit of execution and an affidavit of bona fides, which varies according to the circumstances of the case. They take effect from the date of registration only. In case they are not registered as provided for, or in case the consideration for which they are made is not truly expressed, they are null and void as against creditors, and subsequent purchasers, and mortgages in good faith for valuable consideration. No mortgage, bill of sale, lien, charge, incumbrance, conveyance, transfer or assignment intended to operate or have effect as a security in so far as it assumes to bind or affect any growing crop, or crop to be grown, shall be valid, unless the same be as security for the purchase price of

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seed grain. There are special provisions relating to seed grain mortgages. Mortgages filed cease to be valid as against creditors, etc. after two years, unless renewed. Further renewals after first renewal must be yearly. Renewal is made by statement in form prescribed, which shows interest of mortgagee, assignee, etc., full statement of amount due, all payments on account, with affidavit of truth of the statement. In case of removal from one district to another three weeks are allowed to file copy of mortgage in office for district to which goods are removed. Notice of intention to remove must be given to the mortgagee twenty days prior to removal. Any person failing to give such notice is liable to a penalty not exceeding $100.00.

In the event of the permanent removal into the province of goods and chattels subject to a mortgage or bill of sale made without the Province, from a place where such goods and chattels were when such chattel mortgage or bill of sale was given, a copy of such chattel mortgage or bill of sale, and of the affidavits and documents and instruments relating thereto verified as compared copies, must be filed with the Registration Clerk of the district to which such goods and chattels are removed within three weeks of such removal.

No chattels covered by any chattel mortgage may be seized or sold except by the Sheriff of the Judicial District within which such chattels, are situated or some other person duly authorized by him for the purpose.

Bills of sale and chattel mortgages given by railway companies, covering cars, equipment, rolling stock, etc., are not required to be filed with the Registration Clerk, but the same or sworn copies thereof may be filed with the Registrar of Joint Stock Companies within the prescribed time for filing chattel mortgages, and from the date of such filing shall have priority without renewal, affidavit of execution or of bona fides. (Vide Exemptions.)

Book Debts, Accounts or **Debts to be Incurred.** Assignments of these by retail trader or merchant must be executed, attested and registered as chattel mortgages.

Bulk Sales. Whenever a sale of stock in bulk, i. e., out of the usual course of vendor's trade or business or of the entire stock in trade or of an interest in the vendor's business or trade, the purchaser must demand and receive from the vendor a verified statement showing the names, addresses, and claims of all creditors before paying to the vendor any part of the purchase money or giving any notes or security therefor. One of the following provisions must be complied with (1) the vendor must deliver to the purchaser a written waiver of the Act from creditors representing not less than 60 per cent in number and amount of claims as shown by said statement or (2) the purchaser must pay the whole purchase price and deliver all notes and securities for same to a trust company authorized to act as assignee under The Assignments Act for distribution among creditors as shown by said statement. If provisions of the Act not complied with, sale is fraudulent and void against creditors unless all creditors paid in full.

Decedent's Estate. An officer known as the Official Administrator is appointed for each Judicial District, or such part thereof as may be desirable, who administers the estate if no application be made for probate or administration within one month after decease of any person. He also takes possession of any neglected property of deceased. Application is made to a judge in chambers for an order for executor, administrator or official administrator, to advertise for creditors, notice to send in claims is given by advertisement, which must be verified by stautory declaration, also stating securities held and value thereof. Distribution is made after time named in the order. Claimants not filing within time limited do not share in the distribution, but may follow property into hands of person receiving same. Administrators and official administrator must pass accounts before the judge within two years after grant of letters.

In administration simple contract and specialty debts rank equally, but judgment debts have a priority.

Devolution of Estates. Both real and personal property descend and are distributed in the same manner. The property of any man dying intestate leaving a widow but no issue shall belong to such widow absolutely, provided that prior to his death she has not left him and lived in adultery after leaving him.

If he dies intestate leaving widow and child or children, the widow takes one-third and child or children take remainder in equal shares.

The father of a person dying intestate without leaving a wife or child is entitled to the whole estate subject to payment of debts.

The mother of any person dying intestate without a wife, child or father shall be entitled to the whole. In the distribution of both real and personal property of any woman dying intestate, illegitimate children shall have the same rights as if legitimate. In the event of an illegitimate child dying intestate and without issue, mother takes both real and personal property.

If a married woman die intestate same rules apply as of husband dying intestate.

If under will husband or widow takes less than if deceased had died intestate leaving children, husband or wife may apply to supreme court for relief. Application must be made within six months.

Dower. No Transfer, Agreement for Sale, lease or other instrument intended to transfer or convey any interest in a homestead (i. e., the home) shall be effectual for such purposes and no Mortgage or encumbrance intended to charge any homestead with the payment of a sum of money shall be valid unless the same is signed by the owner and his wife if he has a wife. The wife must appear before one of several officers named in the Act separate and apart from her husband and have the instrument explained before signature by her and such official must give a certificate in the form prescribed by the Act. Knowledge on the part of a transferee, mortgagee, encumbrancee, or lessee that the land described in such instrument is the homestead and that the party executing the instrument has a wife who is not a party thereto, is fraud and in an action by the wife such instrument or any Certificate of Title issued thereon to any person affected by such fraud may be set aside and cancelled. On the death of the owner of a homestead no instrument signed by the personal representative shall be effectual to pass any estate or interest in the same or render it liable for the payment of any sum of money unless the same is executed by the wife as aforesaid so long as the homestead is exempt from seizure under execution. (Vide Exemptions as to circumstances in which homestead is exempt from seizure after death of owner.)

Examination of Judgment Debtor. When a judgment or order is for the recovery or payment of money, the party entitled to enforce it can obtain an ex parte order for the examination of the debtor, or in the case of a corporation, of any officer thereof, as to whether any and what debts are owing to the debtor, and whether the debtor has any and what means of satisfying the judgment or order. The examination is for the purpose of discovery only, and no order is to be made on the evidence given. It may be used on any subsequent proceedings between the same parties, or between the execution creditor, and any transferee of the property and effects of the execution debtor, or in any proceeding to obtain payment directly or indirectly, whether by attachment of debts, equitable execution or otherwise.

Execution. May issue immediately after judgment. An Execution expires in two years unless renewed. Execution may be stayed on special grounds on motion to a judge, who may impose terms as to security, etc.

Exemptions. The following real and personal property of an execution debtor and his family are free from seizure by virtue of all writs of execution:

1. The necessary and ordinary clothing of himself and his family.
2. Furniture, household furnishings, dairy utensils, swine and poultry to the extent of five hundred dollars.
3. The necessary food for the family of the execution debtor during six months, which may include grain and flour, or vegetables and meat, either prepared for use or on foot.
4. Four oxen, horses or mules, or any four of them, six cows, six sheep, four pigs, and fifty domestic fowls, besides the animals the execution debtor may have chosen to keep for food purposes, and food for the same for the months of November, December, January, February, March, and April, or for such of these months, or portions thereof, as may follow the date of seizure be made between the first day of August and the thirtieth day of April next ensuing.
5. The harness necessary for four animals, one wagon or two carts, one mower or cradle and scythe, one breaking plough, one cross plough, one set of harrows, one horse rake, one sewing machine, one reaper or binder, one set of sleighs, and one seed drill.
6. The books of a professional man.
7. The tools and necessary implements to the extent of $200 used by the execution debtor in the practice of his trade or profession.
8. Seed grain sufficient to seed all his land under cultivation not exceeding 80 acres, at the rate of two bushels per acre, defendant to have choice of seed, and fourteen bushels of potatoes.
9. The homestead, provided that the same be not more than 160 acres; in case it be more the surplus may be sold subject to any lien or incumbrance thereon the execution forms a lien or charge on the homestead, but sale cannot be enforced under the execution.
10. The house and buildings occupied by the execution debtor, and also the lot or lots on which the same are situate according to the registered plan of the same to the extent of fifteen hundred dollars.

Any person who has executed a chattel mortgage on any of the chattels mentioned in paragraphs 4 or 5 shall in case of a seizure under such mortgage have the right to claim as exempt from such seizure and from sale any such chattels covered by said mortgage which cannot be so seized or sold without depriving the mortgagor of the number or part of the number of the kind of such chattels as he might hold free from seizure by execution. A person cannot contract not to take the benefit of this provision.

The debtor is entitled to choice from the greater quantity of the same kind of articles. None of the above articles except food, clothing and bedding, when their price forms the subject matter of the judgment upon which the execution is issued, are exempt from seizure. No exemptions in case of execution issued upon a judgment or order for the payment of alimony, nor when debtor has absconded or is about to abscond from Saskatchewan leaving no wife or family. In case of death of the execution debtor, the exemptions may be claimed, if the property is in the use and enjoyment of the widow and children, or widow, or children, of the deceased, and is necessary for their maintenance and support.

Fraudulent Conveyances. A judge may order the examination of an execution debtor and any transferee of any of his property before an examiner. The creditor can then proceed by a summons in chambers and use the examinations as evidence.

Insurance. Every person of the full age of 21 years has an unlimited insurable interest in his own life and may effect insurance of his person for the whole or any part of his life for the benefit of himself, his estate or any other person. If premiums paid on such insurance are paid with intent to defraud creditors, they may receive out of insurance money an amount not exceeding the premiums so paid and interest thereon.

Insurance may be effected by a parent upon the life of his child under 21 years of age provided the child is at least one year of age at the time the insurance is effected. If the child dies under the age of ten years the total amount of all insurance moneys payable on the death is limited by a scale set forth in the Act.

A person not of the full age of twenty-one years but of the age of 15 years or upwards may effect insurance on his own life for his own benefit, for the benefit of a prefe.red beneficiary, or of a father, brother or sister.

Preferred beneficiaries constitute a class and include the husband, wife, children, grandchildren and mother of the assured.

The assured may designate the beneficiary by the contract of insurance or by an instrument in writing attached to or endorsed on it or by an instrument in writing including a will otherwise in any way identifying the contract and may in the same way from time to time appoint or apportion the insurance money or alter or revoke the benefits or add or substitute any beneficiary or divert the insurance money wholly or in part to himself or his estate but not so as to alter or divert the benefit of any person who is a beneficiary for value nor so as to alter or divert the benefit of a person who is of the class of preferred beneficiaries to a person not of that class or to the assured or his estate.

If one of several beneficiaries dies in the life time of the assured and no apportionment or other disposition is subsequently made, the insurance shall be for the benefit of the surviving beneficiaries in equal portions if more than one. If all beneficiaries so die and no other disposition is made, the insurance forms part of the assured's estate.

Where it is stated in the contract or declaration that the money is for the benefit of the wife, or wife and children, or children, the words "wife" and "children" refer to all those of the class living at maturity of the contract and also children living at maturity of the contract of any child of the assured who predeceased him and the last mentioned children take the share their parent would have taken if alive. If a contract of insurance is declared to be for the benefit of a wife only designated by name, it shall be deemed to be for the benefit of the wife living at the maturity of the contract and all children of the assured living at such time as if the contract had been declared to be for the benefit of wife and children generally.

Where one or more designated preferred beneficiaries dies in the lifetime of the assured whether an apportionment has been made or not, the assured may provide that the share or shares of the person so dying shall be for the benefit of the assured or his estate or any other person. In the absence of such declaration the share of any person so dying shall be for the benefit in equal shares of the survivors of such designated preferred beneficiaries except where the person dying is a child of assured leaving children, in which case such children take share their parent would have been entitled to.

Interest. The legal rate is 5 per cent, but any rate may be agreed upon.

Justices of the Peace. These officials have jurisdiction through the Province. They have a limited civil jurisdiction in matters between masters and servants, and in regard to trespass of animals and estray animals and in recovery of debts not exceeding $100.00.

Judgments. Where the claim is for a debt or liquidated demand, and no appearance is entered within the time limited, which varies, plaintiff can enter final judgment for claim and costs. Appearance may be struck out on a four-day summons if defendant has no defence on the merits. No judgment can be obtained except by issuing writ and giving defendant opportunity to defend.

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Liens. Where goods over the value of $15 are sold upon condition that the right of proprty or possession shall not pass until the payment of the purchase price, a copy of the agreement of sale with affidavit of bona fides must be filed in the registration district within which the purchaser resides, within thirty days, or the seller cannot set up his right against subsequent purchasers, mortgagees or creditors. There must be a sufficient description of the goods sold so that they may be readily and easily known and distinguished. In case the vendor repossesses the goods he must retain the same for twenty days before selling, during which time the purchaser may redeem, and he must also give purchaser notice of the sale eight days before it takes place.

Manufactured goods, having at the time of delivery thereof, to the buyer or bailee the manufacturer's or vendor's name painted, printed or stamped thereon or plainly attached thereto by a plate or similar device, are not within the provisions of the Ordinance if such manufacturer or vendor (being the seller or bailor of such goods or chattels) keeps an office in the Province where inquiry may be had and information procured concerning such sale or bailment, and if such manufacturer or vendor, or the agent thereof gives such information within five days of request therefor made in person or by registered letter.

Goods comprised in a lien note or conditional sale may not be removed into another registration district unless notice of intention to remove is given to vendor not less than 20 days before removal. Any person violating this provision is liable to a penalty not exceeding $100.00. (See also Mechanics Liens.)

Limitation of Actions. All actions for the recovery of merchants' accounts, bills, notes, and all actions of debt grounded upon any lending or other contract without specialty shall be commenced within six years after the cause of such action arose.

The provisions of The Real Property Limitation Act, 1874, being chapter 54 of the Statutes of the Imperial Parliament, passed in the 37th and 38th years of Her Majesty's reign, are declared to be in force, and to have been in force since the pasing thereof.

Judgments outlaw in twelve years, and contract under seal in twelve years.

Married Women. They have all the rights and are subject to all liabilities of a femme sole, and may in all respects deal with land as though unmarried.

Mechanics' Liens. The Mechanics' Lien Act gives a contractor, mechanic, labourer and material man a lien for work done or material furnished upon the interest of the owner in the erection, building, land, etc.

A labourer cannot sign away his right to a lien.

The lien created by the Act has priority over all judgments, executions, assignments, attachments, garnishments and receiving orders, recovered, issued or made after such lien arises and over all conveyances or mortgages registered after registration of such lien.

The owner of the building, etc., upon which the work is being done must retain 20 per cent of the cost for 30 days after completion thereof.

Every mechanic or labourer whose lien is for wages shall to the extent of 30 days' wages have priority over all other liens.

A claim for lien may be filed in the Land Titles Office of the Land Registration District, in which the land is situated.

(a) By a contractor or sub-contractor during the performance of the contract or within 30 days after completion.

(b) For services during the performance of the services or within 30 days after completion.

(c) For wages during the performance of the work or within thirty days after last day's work.

(d) For materials at any time before or during the furnishing or within 30 days after the furnishing of the last material.

Failure to file a lien within the times above mentioned or to commence an action within such times to enforce such lien defeats such lien as against intervening parties becoming entitled to a lien or charge upon the land whose claim in respect of said land is registered prior to the registration of such lien and as against an owner in respect of payments made in good faith to a contractor after the expiration of said period of 30 days and before any claim of lien is filed or notice thereof given to an owner.

Once a lien is filed it remains in force until withdrawn or otherwise removed by proceedings under the Act.

The taking of security or recovery of a personal judgment does not merge the lien.

Proceedings to enforce a lien are taken in the District Court.

Real Estate. The Torrens System has been in force in the Territories since the 1st January, 1887, and is continued in force in the Province. A certificate of title is issued to the owner, which is binding upon all persons including the Crown, declaring that the owner is entitled to the estate mentioned in the certificate in the lands therein described subject to the liens, encumbrances and interests mentioned in the certificate. The certificate is conclusive evidence. Whenever any dealing takes place in regard to the land the certificate must be produced, and a memorial of the dealing endorsed upon the certificate. No instrument is of any effect until registered, and cannot be registered without the production of the certificate. Persons entitled under unregistered instruments, or to equitable estates, etc., can protect their interests by caveat.

The whole matter is set out in "The Land Titles Act," c. 41. Revised Statutes of Province of Saskatchewan, 1909.

Wills. Every person may dispose of by will all real and personal property including future and contingent estates to which he is entitled either at law or in equity at the time of his death. No will made by any person under the age of 21 years is valid. No will is valid unless it is in writing, and signed at the foot or end thereof by the testator, or by some other person in his presence and by his direction; such signature shall be made or acknowledged by the testator, in the presence of two or more witnesses present at the same time, who shall attest and shall subscribe the will in the presence of each other and of the testator, but no form of attestation is necessary.

Devise (other than a charge for the payment of a debt) to a witness, or the husband or the wife of a witness, is void, but the witness may prove the execution of the will. No will, codicil, or any part thereof, shall be revoked otherwise than by marriage, or by another will or codicil executed as above described, or by some writing declaring an intention to revoke the same, and executed in the manner in which a will is required to be executed, or by the burning, tearing, or otherwise destroying the same, by the testator, or by some person in his presence and by his direction with the intention of revoking the same

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