

STATE BANKS.

CHAPTER 165.

[S. B. No. 161—Pierce.]

STATE BANKS.

AN ACT Relating to Banks and Banking, Providing for the Organization, Management, Control, Regulation and Supervision of Banking Corporations, Providing Penalties for the Violation of the Provisions of the Same, and Repealing Laws Inconsistent Therewith.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CREATION, ORGANIZATION AND DUTIES OF BANKING BOARD.] The governor, secretary of state and attorney general shall be and they are hereby made a board which shall be known as the state banking board. The governor shall be chairman of said board, the state examiner shall be ex-officio the secretary, and the attorney general shall be ex-officio the attorney for said board. A majority of the members of said board shall constitute a quorum. Said board shall hold regular meetings on the first Wednesday of each month at the executive offices in the state capitol at Bismarck, and special meetings at the call of the governor. Said board shall have charge and control of any and all associations organized for the purpose of carrying on the business of banking, and of all savings banks and trust companies organized under the laws of the state of North Dakota. Said board shall make such rules for the government of such corporations as in its judgment may seem wise and expedient, which rules shall not conflict with any laws of the state of North Dakota, or of the United States. It shall be the duty of the said board at each regular meeting to examine all reports made by said banking associations, savings banks, and trust companies, of their condition, and all reports of regular and special examinations of such institutions made by the state examiner and filed with said board during the preceding month, or such period as shall have elapsed since the last meeting of said board, and to approve or disapprove the same. Said board shall have the power to subpoena witnesses, administer oaths, make orders and generally to do and perform any and all acts and things necessary to a complete performance of the duty herein imposed and to enforce all of the provisions of this act, and for the purpose of enabling such board to perform the duties imposed upon it, the provisions of section 5953 of the revised codes shall be held to be ap-

plicable to its proceedings. Any and all orders made by said board shall immediately become operative and remain in full force until modified, amended or annulled by such board or a court of competent jurisdiction in an action to be commenced by the party against whom such order may have been issued. The state examiner shall file all reports of such banking associations, savings banks and trust companies made to or by him with the said board. Said board shall keep a full and complete record of all its proceedings and of all orders made by it. The records of said board and any and all reports filed with it, shall, under proper restrictions, during regular business hours, be open to inspection and examination by stockholders, depositors, creditors and sureties on any bond of said corporations, or on the bonds of any officer or employe thereof.

§ 2. WHO MAY FORM.] Associations for carrying on the business of banking under this chapter may be formed by any number of natural persons, not less than three, two-thirds of whom shall be residents of this state. They shall enter into articles of association which shall specify in general terms the object for which the association is formed, and may contain any other provisions, not inconsistent with law, which the association may see fit to adopt for the regulation of its business and the conduct of its affairs. These articles shall be signed and acknowledged by the persons uniting to form the association and shall be filed in the office of the secretary of state of the state of North Dakota.

§ 3. ORGANIZATION CERTIFICATE. CONTENTS.] The persons uniting to form such an organization shall, under their hands, make an organization certificate which shall specifically state:

1. The name assumed by such association, which name shall not be the name of any other bank in the state, nor of any bank heretofore incorporated in the state of North Dakota or in the territory of Dakota.

2. The place where the business of discount and deposit is to be carried on.

3. The amount of the capital stock and the number of shares into which the same shall 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.

§ 4. ACKNOWLEDGMENT AND RECORD.] The organization certificate shall be acknowledged before a clerk of some court of record, or a notary public, and shall be, together with the acknowledgment thereof, authenticated by the seal of such court or notary, recorded in the office of the register of deeds in the county where such bank may be established, and such certificate thus authenticated shall be transmitted to the secretary of state who shall record and carefully preserve the same in his office, certify the facts to the state examiner and issue a certificate of authority to the corporation.

§ 5. POWERS.] Upon making and filing articles of association and an organization certificate, the association shall become as from the date of the execution of the same, a body corporate, and as such and in the name designated in the certificate, it shall have the power :

1. To adopt and use a corporate seal.
2. To have succession for a period of twenty-five years from its organization, unless it is sooner dissolved according to the provisions of this chapter, or unless its franchise becomes forfeited by some violation of law.
3. To make contracts.
4. To sue and be sued.
5. To elect or appoint directors, two-thirds of whom must be residents of this state, and by its board of directors to appoint a president and vice-president, who shall be members of said board, a cashier and assistant cashier and such other employes as may be required ; define their duties, require bonds of them and fix the penalty thereof ; dismiss such officers or any of them, and appoint others to fill their places.
6. To provide by its board of directors by-laws, not inconsistent with the laws of this state, to regulate the manner in which its stock shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its business conducted and the privileges granted it by law exercised and enjoyed.
7. To exercise by its board of directors, or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking, by discounting and negotiating promissory notes, bills of exchange, drafts and other evidences of debt, by receiving deposits, by buying and selling exchange, coin and bullion, by loaning money upon real or personal security, or both ; but no association shall transact any business, except such as is incidental and necessarily preliminary to its organization, until it has been authorized by the secretary of state to commence the business of banking, and the secretary of state may withhold from any association his certificate authorizing the commencement of business, whenever he has reason to suppose that the shareholders have formed the same for any other than legitimate objects as contemplated by this chapter.
8. No such association shall have or carry among its assets at any one time loans dependent wholly upon real estate security, (and they shall only be upon first mortgages) in an amount exceeding one-half of its capital stock and surplus, and in selling or disposing of said loans so made upon real estate security, no such association shall have power to guarantee the payment or collection thereof, and any such guaranty made in violation of this provision shall not be binding upon such association, but shall be upon the person or officer making the same.

§ 6. POWER AS TO REAL ESTATE.] Banking corporations formed

under this chapter shall have power to purchase, hold and convey real estate for the following purposes and no other:

1. Such as may be necessary for its immediate accommodation in the transaction of its business, not exceeding twenty-five per cent of its capital stock, if over ten thousand dollars, and thirty per cent if the capital stock is ten thousand dollars or less, and any bank now doing business in this state and owning real estate within the meaning of this subdivision in excess of said amount, shall reduce the same by converting the excess into cash, or other bankable assets, within six months after the passage of this act.

2. Such as shall be mortgaged to it in good faith by way of security for loans, or for debts previously contracted.

3. Such as shall be conveyed to it in good faith in satisfaction of debts previously contracted in the course of its dealings.

4. Such as it shall purchase at sales under judgments, decrees, or mortgages held by the association, or shall purchase to secure debts due to it; but no association shall hold the possession of any real estate under mortgage, or the title and possession of any real estate purchased to secure an indebtedness, for a longer period than five years from the date of acquiring title thereto. And all real estate heretofore or hereafter conveyed by any such banking association shall be deemed to have been acquired, held and disposed of in conformity with the provisions of this chapter.

§ 7. CAPITAL PROPORTIONATE TO INHABITANTS.] Hereafter no association shall be organized under this chapter in cities, towns or villages containing one thousand inhabitants or less with a capital of less than ten thousand dollars; in cities, towns or villages of over one thousand, and not exceeding two thousand, with a capital less than twenty thousand dollars; in cities, towns or villages of over two thousand, and not exceeding three thousand inhabitants, with a capital less than thirty thousand dollars; in cities, towns or villages of over three thousand, and not exceeding four thousand inhabitants, with a capital of less than thirty-five thousand dollars; in cities, towns or villages of over four thousand, and not exceeding five thousand inhabitants, with a capital less than forty thousand dollars; and in cities, towns or villages of over five thousand inhabitants, with a capital less than fifty thousand dollars. At least fifty per cent of the capital stock of every association shall be paid in before it shall be authorized to commence business, the balance of which shall be paid in by installments of not less than ten per cent of the capital stock, at the end of each succeeding month from the time it is authorized to commence business. The payment of each installment shall be certified to the secretary of state under oath of the president or cashier of the association, a copy of which certificate shall be filed with the state banking board. For the purpose of this section, the population of the city, town or village shall be determined by multiplying by four the total vote cast for member

of congress at the last general election held in such city, town or village. The result shall be taken as the population of such city, town or village. No such association having been organized to transact business in a certain city, town or village, and which may have sold or converted its business to a national bank, or other banking business which is continued at the same place, shall be allowed to remove its charter or articles of incorporation to and recommence business at another place; but where it can be clearly shown that a banking association which has not changed, sold or converted its business as hereinbefore recited, is located at a place where there is not sufficient business for the profitable conduct of a bank, such association may apply to the secretary of state for authority to remove its business to some other place within the state and to change its name if desired; and upon the approval of such application by the state banking board, the secretary of state may issue authority for such removal and change; provided, that no such association shall be allowed to remove its business to any city, town or village without having the full amount of capital stock required by this chapter for a new organization in such city, town or village.

§ 8. CERTIFICATE AND AUTHORIZATION PUBLISHED.] The association shall cause the organization certificate and the certificate of authority of the secretary of state, issued under this chapter, to be published in some newspaper in the city or county where the association is located, for at least four consecutive weeks next after the issuing thereof, and proof of such publication to be filed with the state banking board.

§ 9. ARTICLES AS EVIDENCE.] A certified copy of the articles of incorporation of any banking association, organized under the provisions of this chapter, may be used as evidence in all courts for or against any person or such banking association for or against whom such evidence is necessary, whether on civil or criminal trials.

§ 10. DELINQUENT STOCK. HOW SOLD.] Whenever any share holder or his assignee fails to pay any installment on the stock when the same is required to be paid, the directors of such association may sell the stock of the delinquent shareholder, or as much thereof as is necessary to satisfy the debt, at public auction after having given three weeks' previous notice thereof in a newspaper published and in general circulation in the city or county where the association is located to any person who will pay the highest price therefor, to be not less than the amount due thereon, with the expenses of the advertisement and sale, and the excess, if any, shall be paid to the delinquent shareholder. If no bidder can be found who will pay for such stock the amount due thereon to the association, and the costs of advertisement and sale, the amount previously paid shall be forfeited to the association, and such stock shall be sold as the directors may order within three months from the time of such forfeiture, and if not so sold it shall be cancelled and deducted from the capital stock of the association.

§ 11. SHARES. VALUE. LIABILITY OF SHAREHOLDERS.] The capital stock of each association shall be divided into shares of one hundred dollars each, and be deemed personal property and transferable on the books of the association in such manner as may be prescribed by the by-laws or articles of such associations; but no transfer of such stock shall be valid against a bank or any creditor thereof, so long as the registered holder of such stock shall be liable as principal debtor, surety or otherwise to the bank for any debt which shall be due and unpaid; nor in any case shall any dividend, interest or profit be paid on such stock so long as such liability continues, but such dividend, interest or profit shall be retained by such bank and applied to the discharge of such liabilities. Every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all rights and liabilities of prior holders of such shares, and no change shall be made in the articles of association by which the rights, remedies or security of the existing creditors of the association shall be impaired.

§ 12. CAPITAL STOCK. HOW INCREASED OR REDUCED.] Any association formed under this chapter may, by its articles of association, or by subsequent resolution or written agreement of holders of a majority of its stock, provide for an increase of its capital stock from time to time as may be deemed expedient, subject to the rules and limitations of this chapter, and upon approval of the state banking board. But no increase of capital stock shall be valid until the whole amount shall be paid in in cash, and such payment certified under oath by the president or cashier of such association to the secretary of state, who shall give his certificate that the provisions of this section have been complied with and specifying therein the amount of such increase in capital stock, and that it has been duly paid in as part of the capital thereof and file a copy of such certificate with the state banking board. Any association formed under this chapter may, by vote of its shareholders owning two-thirds of its stock, reduce its capital to any sum, not below the amount required by this chapter to authorize the formation of the association, but no such reduction shall be made until the amount of the proposed reduction is reported to the state banking board and their approval thereof obtained in writing, and no such reduction shall be construed as affecting the liability of shareholders for any debts of the association incurred prior to such reduction, and every such reduction before the same shall become valid must be certified to in the same manner as an increase of capital stock.

§ 13. HOW DISSOLVED. DUTIES OF STATE EXAMINER.] Any association organized under the provisions of this chapter, may be dissolved by the district court of the county where its office or principal place of business is situated upon its voluntary application for that purpose. The application must be in writing, and must set forth that at a meeting of the stockholders or members called for that purpose, the dissolution was resolved upon by a two-thirds vote of

all the stockholders or members, and that all claims and demands against the association have been satisfied and discharged. The application must be signed by a majority of the board of directors, or other officers having the management of the affairs of the association, and must be verified in the same manner as a complaint in a civil action. A certified copy of the application shall be filed with the state examiner, or such state officer as is by law authorized to examine such association, within ten days after the filing of such application with the district court. If the court is satisfied that the application is in conformity with this chapter, it must order the application to be filed, and that the clerk give not less than thirty nor more than sixty days' notice of the application by publication in some newspaper published in the county, and if there are none such, then by advertisement posted up in five of the principal public places in the county. At any time before the expiration of the time of publication, any person may file his objections to the application. Before the final hearing and determination of the application, the state examiner shall make a thorough examination of the affairs of such association, and file a certified statement of such examination with the clerk of court of the county where such application is made, which statement shall be part of the papers in the case. After the time of publication has expired the court may, upon five day's notice to the persons who have filed objections or without further notice if no objections have been filed, proceed to hear and determine the application, and if all the statements therein made are shown to be true, the court must declare the association dissolved. No stockholder or officer of such association shall be allowed to withdraw from such association, or surrender or dispose of his shares of stock after the filing or making of such application for dissolution and prior to the final determination of the case. Upon the dissolution of such association by the district court, the clerk of said court shall forthwith notify the secretary of state of such dissolution, by sending a copy of the order of the court, and said order and notice shall be filed by the secretary of state with the original certificate of organization. The application, notices and proof of publication, objections, if any, and declaration of dissolution, constitute the judgment roll, and from the judgment an appeal may be taken in the same manner as in other actions. The secretary of state shall immediately certify such dissolution to the state examiner.

§ 14. DIVIDENDS. SURPLUS FUNDS.] The directors of any association organized under this chapter may, semi-annually or annually declare a dividend of so much of the net profits of the association as they shall deem expedient, but each association shall, before the declaration of a dividend, carry one-tenth of its net profits to its surplus fund until the same shall amount to twenty per cent of its capital stock.

§ 15. QUALIFICATION OF DIRECTORS.] Every director must own in his own right and retain in his possession and control free from hypothecation or pledge for any debt, at least ten shares of the capital stock of the association for which he is a director; any director who ceases to be the owner and in possession of ten shares of the stock free and non-hypothecated, or who becomes in any manner disqualified, shall thereby vacate his place. Every such director when elected or appointed shall take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of such association, and will not knowingly violate or willingly permit to be violated, any of the provisions of this chapter, and that he is a bona fide owner of the number of shares of stock required by this chapter to become a director, standing in his own name on the books of the association, and that said stock is in his own possession and control and is not hypothecated or in any way pledged as security for any debt. Such oath, subscribed by the director making it, and certified by the officer before whom it was taken, shall at once be transmitted to the state examiner to be filed in his office.

§ 16. NO DIVIDENDS, WHEN. BAD DEBTS.] No association shall nor shall any member thereof, during the time it shall continue its banking operations, withdraw or permit to be withdrawn, either in form of dividends or otherwise, any portion of its capital, if losses have at any time been sustained by such association, equal to or exceeding its undivided profits then on hand. No dividend shall be made, and no dividends shall be made by any association while it continues its banking business to an amount greater than its net profits on hand, deducting therefrom its losses and bad debts. All debts due to an association made or continued in violation of any of the provisions of this act, shall be considered bad debts within the meaning of this section, and the state banking board is empowered, and it is made the duty of such board, to ascertain and designate such bad debts, to make and enforce such orders and to institute such proceedings as may be deemed necessary to dispose of the same or to convert them into good assets.

§ 17. RATE OF INTEREST.] Such association may demand and receive for loans on personal security, or for notes, bills or other evidences of debt, discounted, such rate of interest as may be agreed upon, not exceeding the amount authorized by law to be contracted for, and it shall be lawful to receive such interest according to the ordinary usage of banking associations and for not more than one year in advance.

§ 18. REGULAR AND SPECIAL REPORTS. PENALTIES FOR FAILURE TO MAKE.] Every banking association, savings bank and trust company organized under this chapter, shall make at least five reports each year to the state examiner, in such form as the state banking board shall prescribe; such forms to be as nearly as possible like those prescribed by the comptroller of the currency for similar reports for national banks. Such report shall exhibit in detail, under

appropriate heads, the resources and liabilities of the association at the close of business on a past day by him specified, which shall, if practicable, be the same day for which similar reports are required from national banking associations within the state by the comptroller of the currency of the United States. Each report must be verified by the oath of the president or the cashier and attested as correct by at least two of the directors, and must be transmitted to the examiner within seven days after receipt of the request for the same, and an abstract of the same in a form prescribed by the board shall be published, at the expense of the association, in some newspaper in the city, town or village where such bank is located, and in case there is no such newspaper, then in any other newspaper in the county in which such association is located. The state banking board shall also call for a special report from any association whenever in their judgment the same is necessary, in order to obtain full and complete knowledge of its condition. Every association which fails to make and transmit any report required in pursuance of this section, shall forfeit and pay to the state a penalty of two hundred dollars for each delinquency.

§ 19. RESPONSIBILITY OF SHAREHOLDERS.] The shareholders of every association organized under this chapter shall be individually responsible, equally and ratably, and not one for another, for all contracts, debts and engagements of such association made or entered into to the extent of the amount of his stock therein at the par value thereof, in addition to the amount invested in and due on such shares. Such individual liability shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

§ 20. LOANS ON SHARES PROHIBITED.] No association shall make any loan or discount on the security of the shares of its own stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, and stock so purchased or acquired shall within six months be sold or disposed of at public or private sale. If such stock is not sold within the period last herein provided, the same shall be cancelled and deducted from the capital stock of said association.

§ 21. RESERVE FUND.] Each association shall at all times have on hand in available funds an amount which, after deducting therefrom the amount due to other banks, shall equal twenty per cent of its total deposits; three-fifths of this amount may consist of balances due to the association from good solvent state or national banks or trust companies, which carry sufficient reserve to entitle them to act as such depository banks, and are located in such commercial centers as will facilitate the purposes of banking exchanges, and which depository banks shall have been first approved by the state banking board, and the remaining two-fifths of such reserve shall consist of actual cash on hand; cash items shall not be included in computing

reserve, and no association shall carry as cash or cash items, any paper or other matter except legitimate bank exchange, which will be cleared on the same or next succeeding business day. Whenever the available funds, within the meaning of this section, shall be below twenty per cent of its deposits, such association shall not increase its liabilities by making any new loans or discounts other than by discounting or purchasing bills of exchange, payable at sight, nor make any dividend of its profits, until the required proportion between the aggregate amount of the deposits and its lawful money reserve has been restored; and the state banking board must notify any association whose lawful money reserve shall be below the amount required to be kept on hand, to make good such reserve, and if such association shall fail to do so for a period of thirty days after such notice, the state banking board may impose a penalty of not less than one hundred dollars, or more than five hundred dollars, which shall be collected in the same manner as other penalties prescribed in this chapter.

§ 22. PENALTIES, HOW RECOVERED.] All fines and penalties herein provided for, to which any association under this chapter may become subject, shall be recovered on complaint of the state examiner, before any court having competent jurisdiction, and all fines and penalties so established shall be paid into the state treasury.

§ 23. LIMIT OF LOAN TO ONE CONCERN.] The total liability to any association of any person, corporation, company or firm, including in the liabilities of a corporation or firm the liabilities of the several members, stockholders or directors thereof, for money borrowed, and paper of the same parties as makers thereof, purchased, shall not at any time exceed fifteen per cent of the capital stock of such association actually paid in, but the discount of bills of exchange drawn in good faith against actual existing values, or loans upon produce in transit or actually in store as collateral security; provided, that all paper relating to such transactions be made payable to and such paper and the security therefor, be and remain in the possession and control of such association until the advance or debt be paid, shall not be considered as money borrowed, and such association may discount commercial or business paper actually owned by the person negotiating the same without it being deemed an addition to the loans to said negotiator.

§ 24. PENALTY FOR VIOLATIONS.] Any officer of any banking association, savings bank or trust company violating or knowingly permitting to be violated, the provisions of this chapter, not herein specially provided for, shall upon conviction thereof, pay a fine of not less than fifty dollars nor more than five hundred dollars for each offense, to be recovered before any court having competent jurisdiction, and all fines and penalties so recovered shall be paid into the state treasury.

§ 25. PENALTY FOR FALSE STATEMENTS OR ENTRIES.] Every officer, agent or clerk of any association organized under this chapter,

who wilfully and knowingly subscribes or makes any false statements or entries in the books of such association, or knowingly subscribes or exhibits any false paper with intent to deceive any person authorized to examine as to the condition of such association, or wilfully subscribes or makes any false report, shall be guilty of forgery as defined in the penal code of the state of North Dakota and punished accordingly.

§ 26. INSOLVENT BANK NOT TO RECEIVE DEPOSIT.] No banking association shall accept or receive on deposit with or without interest, any money, bank bills or notes, or United States treasury notes or currency, or other notes, bills or drafts circulating as money or currency, when such banking association is insolvent.

§ 27. PENALTY FOR VIOLATING THE LAST SECTION.] If any such banking association shall receive or accept on deposit any such deposits as aforesaid when insolvent, any officer, director, cashier, manager, member, party or managing party thereof, who shall knowingly receive or accept, be accessory or permit or connive at the receiving or accepting on deposit therein or thereby of any such deposits as aforesaid, shall be guilty of a felony, and upon conviction thereof, shall be punished by a fine not exceeding ten thousand dollars or by imprisonment in the penitentiary not exceeding five years, or by both such fine and imprisonment.

§ 28. BANKING MUST BE DONE IN COMPLIANCE WITH THIS CHAPTER. PENALTY.] No person excepting national banking corporations shall transact a banking business nor use the words bank, banking company or banker in any sign, advertisement, letter head or envelope or in any corporate or firm name, without complying with and organizing under the provisions of this chapter. Any person violating the provisions of this section, either individually or as an interested party in any association or corporation, is guilty of a misdemeanor, and on conviction thereof shall be fined not less than five hundred nor more than one thousand dollars, or imprisoned in the county jail not less than ninety days, or both, in the discretion of the court.

§ 29. FORFEITURE OF FRANCHISE.] Every association organized under this chapter which shall refuse or neglect to comply with any requirements, lawfully made upon it by the state banking board, or by the state examiner, pursuant to this chapter, for a period of ninety days (or for a lesser period if specified in the order) after demand in writing by such board or examiner is made, shall be deemed to have forfeited its franchise and any failure on the part of such association to comply with, or any violation of any of the provisions of this chapter, shall work a forfeiture of its franchise, and in either case the attorney general, upon demand of the state banking board, must commence an action for the purpose of annulling the existence of said association.

§ 30. EXAMINATION OF BANKS. FEES. REPORT TO STATE BANKING BOARD.] The state examiner shall be ex-officio superintendent

of banks. He shall, as often as shall be deemed necessary and proper by the state banking board, and at least once a year, duly examine every banking association, savings bank and trust company organized under this law, or the law of the state of North Dakota, for which he shall charge the association so examined a fee for each annual examination only and turn the same into the state treasury as follows: Associations of ten thousand dollars capital or less, a fee of twenty dollars; associations with a capital from twenty thousand dollars to thirty thousand dollars, twenty-five dollars; associations with capital from thirty thousand dollars to forty thousand dollars, thirty dollars; associations with capital from forty thousand dollars to fifty thousand dollars, thirty-five dollars; associations with capital from fifty thousand to sixty thousand dollars, forty dollars, and all associations having a capital of sixty thousand dollars or over, fifty dollars. He shall have power to make a thorough examination into the affairs of the association, and in so doing may examine any of the officers, agents, or clerks thereof, under oath, and he shall ascertain what are the proper assets and accounts for such association to carry, and shall direct to be disposed of or charged off any stock, bonds, notes, accounts or any assets of whatever nature which he deems to be improper or not for the best interest of said association. And he shall make a full and detailed report in writing of the conditions of the association so examined, including therein a statement of any direction or recommendation made in conformity herewith, and of all matters and things relating to the general conduct of the association, and shall forthwith transmit the same to the state banking board. The state examiner shall not be directly or indirectly interested in any association organized under this chapter.

§ 31. OATH OF OFFICERS.] Every active officer of any bank organized under this chapter shall, before entering upon the duties of his office, take and subscribe an oath that he will so far as the duty devolves on him, diligently and honestly administer the affairs of such association, and that he will not knowingly violate, or willingly permit to be violated any of the provisions of this chapter. All such oaths shall be presented to the board of directors and a synopsis thereof recorded in the director's record and then filed with the state banking board.

§ 32. BONDS OF OFFICERS AND EMPLOYES.] All officers and employes of any banking association, savings bank or trust company shall, before entering upon their duties, furnish a good and sufficient bond to the association in such sum and upon such conditions as may be required by the board of directors. All such bonds shall be approved by the board of directors of such association and shall be subject to the approval of the state banking board. A record of the approval of such bonds by the board of directors of such association shall be made on the records of the bank, and then such bonds shall be filed with the state banking board. Stockholders of such banks shall not be eligible as bondsmen for such officers.

§ 33. EXAMINATION BY DIRECTORS AND REPORT.] It shall be the duty of the board of directors in January and July of each year to make a careful and thorough examination of the assets of the bank, examine stocks, checks, certificates of deposit and cashier's checks, count cash, examine loans and discounts of every nature, with the securities and collaterals belonging thereto, compare the aggregate with the records and make a complete report of such examination in such form as may be designated by the state banking board, with suggestions and criticisms, if in their judgment such are necessary, which report shall be spread on the records of the bank the same as the minutes of a regular meeting of the board of directors, and a duplicate thereof transmitted to the state banking board.

§ 34. ACTION AGAINST INSOLVENT BANKS.] The state banking board on being satisfied of the insolvency of any banking association organized under the provisions of this chapter, or of the violation of any of the provisions of this chapter by any such association, after an examination of the same, shall forthwith take charge of such insolvent bank pending the action of the court. For that purpose it is made the duty of the board to appoint a temporary receiver, who shall qualify in such manner as may be directed in the order appointing him. Immediately upon taking charge the receiver shall prepare and submit a statement of the conditions of the banking association to the state banking board, who shall thereupon institute an action against the association in accordance with the provisions of chapter 26 of the code of civil procedure.

§ 35. OVERDRAFTS.] Any bank officer or employe who shall pay out [of] the funds of any bank upon the check, order or draft of any individual firm, corporation or association, which has not on deposit with such bank a sum equal to such check, order or draft, shall be personally liable to such bank for the amount so paid.

§ 36. LIST OF SHAREHOLDERS TO BE KEPT AND FILED.] The president and cashier of every bank formed pursuant to the provisions of this chapter, shall at all times keep a true and correct list of the names of all the shareholders of such bank, with the amount of stock held by each, the time of transfer and to whom transferred, and shall file a copy of such list in the office of the county auditor and in the office of the state examiner on the first Monday of January and July in each year.

§ 37. IMPAIRMENT OF CAPITAL.] If any portion of the capital of any banking association is reduced without the approval of the state banking board or impaired for any purpose whatever, while any debts of the association remain unsatisfied, no dividend or profit on the shares of the capital stock of the association shall thereafter be made until the deficit of the capital is made good, either by subscription of the stockholders or out of the subsequently accruing profits of the association. And, if at any time, it shall appear that the capital stock of any banking association has become impaired, the state banking board must immediately issue and enforce the nec-

essary order restraining the declaring of dividends and requiring the deficit to be made good.

§ 38. ASSETS NOT TO BE USED IN OTHER BUSINESS.] No bank shall as principal employ its money or other of its assets, directly or indirectly, in trade or commerce, nor employ or invest any of its assets or funds in the stock of any corporation, bank, partnership, firm or association, nor shall it invest any of its assets in speculative margins of stocks, bonds, grain, provisions, produce or other commodities, except that it shall be lawful for banks to make advances for grain or other products in store or in transit to market.

§ 39. BANKS EXEMPT FROM ATTACHMENT AND EXECUTION.] Every banking association in this state shall be exempt from the legal process of attachment and execution. But if any bank fails, neglects or refuses to pay any valid final judgment or decree that may be rendered against it by any court of competent jurisdiction, not properly stayed by an appeal bond within the time prescribed by statute or order of court after rendition thereof, the state banking board shall declare such bank insolvent or in failing circumstances and shall forthwith cause a receiver to be appointed to wind up its affairs.

§ 40. INSOLVENT, WHEN.] A bank shall be deemed insolvent: First, when the actual cash market value of its assets is insufficient to pay its liabilities; second, when it is unable to meet the demands of its creditors in the usual and customary manner; third, when it shall fail to make good its reserve as required by law; fourth, when it shall fail to comply with any lawful order of the state banking board within any time specified therein.

§ 41. SECRETARY TO KEEP BANK RECORD.] It shall be the duty of the secretary of the state banking board to keep a "bank record" wherein shall be recorded the name and location of each bank in the state, its capitalization and changes thereof, its officers, and its reserve agents, and changes of the same, and in docket form such other proceedings as may have been had relative to the same, by the state banking board, and by the state examiner.

§ 42. REPEAL AND SAVING CLAUSE.] All laws and parts of laws repugnant to and inconsistent herewith are hereby repealed; provided, that this act shall not affect any offense committed or right accruing prior to the taking effect hereof, but all such offenses or rights of action shall remain and be prosecuted under the law existing at the time such offense was committed or such right of action accrued.

Approved March 6, 1905.