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Banks—Trustee for Proceeds of Items Sent for Collection

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merce fall within this rule. By requiring that all pilots in the state have Federal licenses, the problem is solved.

Other states have from time to time enacted statutes somewhat similar to the new Illinois statute, but Illinois is unique in having so whole-heartedly given the control of aircraft to the Federal government. If a few other states followed its example we should have two entirely distinct movements toward unity in air law, one championed by the Uniform State Law, urging that the states of this country should assert their individual powers over aeronautics in one voice, and the other initiated by the Illinois statute, favoring the enactment of only those statutes which subject all flying to the same rules which govern interstate flight.

J. A. G., '31.

BANKS—TRUSTEE FOR PROCEEDS OF ITEMS SENT FOR COLLECTION.—It is provided in a recent Missouri statute that “when a drawee or payor bank has presented to it for payment an item or items drawn upon or payable by or at such bank and at the time has on deposit to the credit of the maker or drawer an amount equal to such item or items and such drawee or payor shall fail or close for business as above, after having charged such item or items to the account of the maker or drawee thereof or otherwise discharged his liability thereupon, but without such item or items having been paid or settled for by the drawee or payor either in money or by an unconditional credit given on its books or on the books of any other bank which has been requested or accepted so as to constitute such drawee or payor or other bank debtor therefor, the assets of such drawee or payor shall be impressed with a trust in favor of the owner or owners of such item or items for the amount thereof or for the balance payable upon a number of items which have been exchanged, and such owner or owners shall be entitled to a preferred claim upon such assets, irrespective of whether the fund representing such item or items can be traced and identified as part of such assets or has been intermingled with or converted into other assets of such failed bank.” It continues by providing for such a preference in the assets of a bank other than the drawee or payor which shall fail after collecting items sent to it for that purpose, but before actual payment by it to the owner of such items. Mo. Laws 1929, 208, sec. 11.

Since the decision of *First National Bank of Lapeer v. Sanford* (1895), 62 Mo. A. 394, the courts of this state have applied substantially the rule expressed above. “The Missouri doctrine thus appears to be that in the absence of intention to the contrary, as designated by a reciprocal accounts arrangement to send paper for collection and remittance creates the relationship of principal and agent which is not changed by an act of the agent in contravention of his authority by the method of collection, credit, attempted remittance or by mixing the proceeds with general assets, provided that funds sufficient to constitute a res exist in the insolvent bank or solvent correspondent banks at the time of the charge and of insolvency.” Note (1929) 14 St. Louis L. Rev. 406. This view is opposed to that an-

nounced by the courts of an overwhelming number of states. *Bank v. Bradley* (1926), 136 S. C. 511, 134 S. E. 510; *Leach v. Iowa State Saving Bank* (Ia. 1926), 211 N. W. 517.

The statute provides for a preference to the extent of the item or items or for the balance payable upon a number of items which have been exchanged. It is not probable, although the language might so indicate, that the courts in construing this statute will permit a preference where the owner of the item or items is another bank which is in the habit of collecting for the insolvent institution and giving or accepting credit as the balance might dictate. The decision in *American Bank of De Soto v. People's Bank of De Soto* (Mo. 1923), 255 S. W. 943, in which such a reciprocal accounts arrangement existed, was justified in its refusal of a preference upon this ground by the cases of *Bank of Poplar Bluff v. Millspaugh* (1926), 313 Mo. 412, 281 S. W. 733 and *Federal Reserve Bank v. Millspaugh* (1926), 314 Mo. 1, 282 S. W. 706.

It is noticed that the statute is silent in requiring that assets at least equal in amount to the item or items for which preference is sought, be present in the vault of the insolvent bank or solvent correspondent banks, at the time of failure of the former. It is perhaps indicated, however, by this language ". . . irrespective of whether the fund representing such item or items can be traced and identified as part of such items." It is conceivable that since the courts are no longer burdened with reconciling their positions with age-old principles, such a requirement by a construction of this statute will be dispensed with.

With the exception of the proposition mentioned above, and that provided for in sec. 10, Mo. Laws 1929, 207, which preserves the rights of the owner of the item where remittance has been made in paper subsequently dishonored, the above statute appears a codification of the existing Missouri doctrine, and has relieved the courts from the burden of justifying by legal propositions and maxims a view in harmony with business practices. Note (1929) 14 ST. LOUIS L. REV. 406. F. E. M., '30.

CONSTITUTIONAL LAW—REGULATION OF ICE INDUSTRY IN ARKANSAS.—An interesting development in recent legislation is to be found in Acts of Arkansas, 1929, 110, Act No. 55, "An Act for the Regulation of the Sale, Delivery and Distribution of Ice, and Vesting the Railroad Commission with Jurisdiction over the Same." The Act provides (sec. 1) "that the use of ice is a public necessity, the use, manufacture, sale, delivery and distribution thereof, within the State of Arkansas, has direct relation to the health, comfort, safety, and convenience to the public, the same being a prime necessity of life and monopolistic in its nature and price, manufacture, sale and delivery and distribution of ice within the State of Arkansas is hereby declared to be a public business impressed with a public trust and subject to public regulation as hereinafter enacted." Provisions follow vesting the power to regulate, supervise, establish and enforce prices and rates, re-