

CHAPTER 48

BANKS AND TRUST COMPANIES

Laws 1883, Chapter 107, authorized the organization, and the incorporation under certain sections of G. S. 1878, c. 34, of annuity, safe deposit, and trust companies. Section 11 prohibited them, except as provided in the act, from engaging in the business of banking.

Induced by the passage of federal legislation relating to national banks, the Minnesota legislature enacted L. 1923, c. 274, the provisions of which prescribe the conditions under which a state bank may act as a trust company.

There are no independent trust companies at this time, each having been consolidated with its affiliate parent bank, possibly to avoid the gross earnings tax prescribed by Minnesota Statutes 1945 s. 295.37.

48.03 STOCK LIST; FILING; TRANSFER; LIABILITY OF STOCKHOLDERS.

The officers of the bank who made the sale of bank stock to the defendant made false and fraudulent representations and concealment as to the value of the stock, and if defendant relied in part on those representations, such fraudulent practices are a defense to his note. *Chippewa County Bank v Kief*, 172 M 412, 215 M 833.

A finding of fraud and misrepresentation by some other than the defendants who induced the plaintiff to buy the stock does not support the conclusion of law that the stock be canceled. *Sullivan v State Bank*, 179 M 161, 228 NW 603.

A bona fide transferor of stock is not liable for the debts of the bank incurred after the transfer. He is liable for those existing at the time of the transfer and not afterwards paid. The Constitution, Article 10, Section 3, imposes the liability for one year after the date of transfer. *Bank of Dassel v March*, 183 M 127, 235 NW 914.

The probate court is without jurisdiction to allow a claim based upon decedent's statutory liability where the claim had remained contingent for more than five years after decedent's death. *In re Flewell*, 201 M 407, 276 NW 782.

History of the laws relating to banks and trust companies, carried through the various compilations and revisions. *State v Crookston Trust Co.* 222 M 17 22 NW(2d) 915.

Fraudulent transfer of bank stock to avoid liability. 9 MLR 477.

Liability of a bank as a stockholder. 14 MLR 173.

Stockholder's right of set off against statutory liability. 14 MLR 815.

48.05 CAPITAL NOT TO BE WITHDRAWN; DIVIDENDS.

A depositor cannot maintain an action to recover from a director dividends wrongly paid to stockholders upon their stock. Such an action must be brought by the bank or its representative. *Frederick v McRae*, 157 M 367, 196 NW 270.

48.11 CONTRACTS, HOW MADE.

The cashier is an executive agent of a bank for whose acts, while engaged in its affairs, the bank is liable to the same extent that individuals are liable under like circumstances. *Sutley v Polk County Bank*, 162 M 118, 202 NW 338.

A corporation is liable when an unfaithful officer perpetrates a fraud for his own benefit on an innocent third party; and it was error for the trial court to

direct a verdict for the defendant when the president of a city bank agreed to sell a county bank "good bankable paper" and charge the amount to the customer's deposit account, the selection of the paper being entrusted to the president. *Engen v Merchants & Manufacturers*, 164 M 293, 204 NW 963.

An officer of a trust company, having express authority to buy and sell securities, has no implied power in selling securities to bind the corporation by a contract to repurchase them on demand at "face value and accrued interest." *Eberlein v Stockyards Mortgage Co.* 164 M 323, 204 NW 961.

A cashier of a bank has implied power to endorse negotiable paper in the ordinary transaction of its business. *Barke v Comstock State Bank*, 174 M 471, 219 NW 757.

A bank is liable for the loss of trust funds deposited with it in the name of the trustee when it has actual knowledge of the character of such funds and acts in bad faith by conniving with the trustee and acquires the money for its own use. *Solway State Bank v School District*, 179 M 423, 229 NW 568.

There being no limitation of power shown, the cashier of a state bank has no authority to execute a contract in behalf of the bank for the preservation or protection of its securities. *Bankers Life Co. v. Farmers State Bank*, 188 M 349, 247 NW 239.

Where an officer, in active charge of the business of a bank, is the sole representative of the bank in a transaction with others, his knowledge of the facts is chargeable to the bank, even if he has a personal interest, adverse to the bank, in the transaction. *Peoples Bank v Ruppert*, 189 M 348, 249 NW 325.

A naked promise, made in casual conversation by the cashier of a bank, to do a favor for a customer and a debtor of the bank, not made in the bank or in connection with any business of the bank or any business transaction, and not involving any duty owing by the bank to the customer, does not impose any obligation or liability on the bank and does not sustain any defense of fraud to a note theretofore given to the bank and thereafter renewed. *First National v Fox*, 191 M 318, 254 NW 8.

48.12 BONDS OF OFFICERS AND EMPLOYEES.

Defendant issued a bond to the bank represented by plaintiff. It guaranteed the fidelity of the bank's employees and was from time to time renewed. Such renewals did not constitute separate liabilities, but the bond was a continuous obligation. *Pearson v U. S. F. & G. Co.* 138 M 240, 164 NW 919.

When an ambiguity exists in the terms of a bond it must be construed most favorably to the insured. *Cary v National Surety Co.* 190 M 185, 251 NW 123.

Where the insurance is to indemnify the insured against loss through the fraudulent and dishonest acts of his employee, the insurance covers all losses due to such acts committed during the coverage term, whether discovered during that time or afterward. *State Bank v American Surety Co.* 206 M 137, 288 NW 7.

A judgment recovered against an indemnitee upon an obligation covered by contract of indemnity is conclusive against the indemnitor in an action by the indemnitee to recover, if the indemnitee gave the indemnitor due notice of the action and invited him to assume the defense. *State Bank v American Surety*, 206 M 137, 288 NW 7.

48.15 SPECIAL POWERS.

Where a mortgagee, knowing that the mortgagors have made a special deposit of money in the bank where the mortgage is payable to pay and satisfy it in full, delivers the satisfaction and for his own convenience accepts the cashier's check instead of the money, the debt is paid, and the bank is substituted as debtor of the mortgagee instead of the mortgagor. *Vogel v Zastrow*, 191 M 20, 252 NW 664.

Where a guardian embezzled funds of his ward and paid them to a bank, the bank believing he was using his own funds, the guardian cannot recover the funds

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from the bank in the absence of a showing that recovery is necessary to protect the ward from loss. The primary liability is upon the guardian and his sureties. *Galloway v Security State*, 193 M 104, 258 NW 10.

Where the president of a corporation deposited in the name of his wife funds of the corporation, purposing thereby to pay his personal debt to her, the corporation was not divested of its property in the deposit. It was therefore subject to the bank's right to offset it on a past-due debt from the corporation to the bank. *Skolnick v Gruesner*, 196 M 318, 265 NW 44.

The evidence sustains the finding that the 18 checks, between Sept. 10, 1934, and June 25, 1935, were drawn and delivered by defendant to the respective payees and honored by plaintiff. The cashier of the bank failed to charge them to defendant's account until July 1935, at which time there was an overdraft for which this suit was brought and judgment properly obtained. *Mendota State Bank v Riley*, 203 M 409, 281 NW 767.

Where the state's attorney general and its banking department have for a long period of years construed the applicable statutes to grant powers to trust companies, organized thereunder, to receive commercial deposits from private parties subject to be withdrawn by check, and such practice has been well known to successive legislatures without any attempt to amend the statutes, the court should not depart from such administrative construction. *State ex rel v Crookston Trust Co.* 203 M 512, 282 NW 138.

A joint control agreement by an administrator, his surety and depository, by its terms limited to special administration, covered the administrator's bank account as general administrator, where the evidence showed that such was the intention and understanding, of the parties. *Fidelity & Casualty Co. v Peoples National Bank*, 207 M 184, 290 NW 305.

Absent an agreement to the contrary, a depository bank upon which a check is drawn becomes the debtor of one who deposits such check to his account in such bank when the amount of the deposit is entered in the depositor's passbook. *White Brokerage Co. v Cooperman*, 207 M 239, 290 NW 790.

In an action against an issuing bank by the named payee to recover on a cashier's check issued for a special purpose and subject to a contract between the payee and the purchaser by which the check was used as an earnest money deposit, and, by the terms of the contract, was to be returned to the purchaser in the event the payee could not perform his contract, the trial court was justified in interpleading the purchaser of the check and discharging the bank as defendant. *Deones v Zeches*, 212 M 260, 3 NW(2d) 432.

Provisions in a passbook requiring depositor to examine canceled checks and bank statements and report errors or discrepancies within ten days is reasonable under the circumstances here disclosed and is binding upon the depository; and since plaintiff was bound by the passbook regulation limiting the bank's absolute liability, it is immaterial whether the bank was negligent in failing to detect the forgeries. *Brunswick v Northwestern National*, 214 M 370, 8 NW(2d) 333.

Where the language of the parties does not clearly show their intention, practical construction may be resorted to to determine whether a debt or a trust was intended. *Farmers Bank v Ellingson*, 218 M 411, 16 NW(2d) 319.

Upholding the validity of L. 1943, c. 620, the court holds that contracts of deposit, where incurred and to be performed in this state, are subject to state's dominion. The state has constitutional power to protect interests of depositors from risks which attend long-neglected accounts by taking them into custody when they have been inactive so long as to be presumptively abandoned. *State v Northwestern National*, 219 M 471, 18 NW(2d) 569.

The right of a banker to charge up to a depositor, without his order, the amount of his note, or other obligation to pay, before it is due, is conditioned on the depositor's solvency. *Clearwater County v Pfeffer*, 236 F. 183.

Where money is deposited for a specific purpose only, title does not pass, and the relation of depositor and bank is that of principal and agent. In the instant

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case it is held the deposit was not a specific deposit for a specific purpose. *Northern Sugar Corp. v Thompson*, 13 F(2d) 829.

Under acceleration clause of collateral agreement providing that on happening of certain contingencies all liabilities of maker to bank should, at bank's option without notice or demand of payment thereof, become forthwith due and payable, on happening of one of the contingencies, such as a garnishment of depositor's account, the bank has the right to apply all moneys and properties of the maker in bank's hands to payment of maker's indebtedness. *Lang v Northern Jobbing Co.* 22 F. Supp. 688.

48.153 BANKS; INSTALMENT LOANS; INTEREST IN ADVANCE.

Amended by L. 1947 c. 314 s. 1.

48.16 BANKS MAY NOT PLEDGE ASSETS; EXCEPTIONS.

A commercial bank organized under the laws of Minnesota has no power to pledge any of its assets, particularly bills receivable, to secure the repayment of deposits, except as it is given by statute with respect to deposit of state and municipal funds. *Farmers & Merchants Bank v Consolidated Schools*, 174 M 286, 219 NW 163.

48.17 OFFICERS OR EMPLOYEES, POWERS TO BORROW MONEY, MAKE GUARANTIES, ENDORSE, PLEDGE OR HYPOTHECATE NOTES, BONDS, OR OTHER OBLIGATIONS.

President of defendant bank was also secretary and treasurer of a large local manufacturing company. The manufacturing company discounted part of its commercial paper through the plaintiff bank. The president and cashier of the defendant bank, without authority of board of directors, signed on behalf of the defendant bank a guaranty of the paper discounted with plaintiff. Held: (1) the knowledge of the president of the defendant bank would be the knowledge of the defendant; (2) the knowledge of the cashier would be the knowledge of defendant; (3) the bank is chargeable with the knowledge the cashier would have had if he had read the letter of guaranty; and (4) the defendant is estopped from questioning the validity of the contract of guaranty. *Central Metropolitan Bank v Chippewa County Bank*, 160 M 129, 199 NW 901.

A mortgage note where sold by the bank to plaintiff bore a guaranty of payment signed by the bank. Although want of authority on the part of the bank's officers was pleaded, the court held the guaranty valid. *Beyl v Swanson*, 165 M 278, 206 NW 453.

An unqualified endorsement of a promissory note, by means of a rubber stamp, is sufficient and satisfies the requirement of the statute if made by someone having authority so to do; and it is within the implied power of the cashier of a bank to endorse negotiable paper in the ordinary transaction of banking business. *Farmington State Bank v Delaney*, 167 M 394, 209 NW 311.

48.18 PLEDGES OR LIENS OF ASSETS SUBJECT TO PRIOR LIENS.

Right of state banks, trust companies, savings banks, building and loan associations, credit unions, industrial loan and thrift companies and small loan companies to make loans under the servicemen's readjustment act (G. I. Bill of Rights). Inclusion in limitation of loans to any individual of loans made to veterans. Complete resumé. 1944 OAG 23, Nov. 27, 1944 (29-A-20).

48.19 LOANS ON REAL ESTATE RESTRICTED.

Amended by L. 1947 c. 141 s. 1.

48.24 RESTRICTIONS UPON TOTAL LIABILITY TO A BANK.

Amended by L. 1947 c. 82 s. 1.

Bank loans under this section include mortgages on land within or without the state. OAG Feb. 14, 1947 (29-a-20).

Only unguaranteed portions of the veteran's mortgage loan must be considered in determining the limit of a veteran's liability to a bank. OAG Feb. 14, 1947 (29-a-20).

In a suit by bank receiver against directors to recover damages sustained by carelessness, negligence, and misconduct of the bank's affairs, the cause of action was barred by a six year limitation; and as to non-resident directors, the amount due them for amount paid by them because of their liability on a depositary bond could be offset against the moneys due from such non-residents in the instant cause of action. *Andresen v Thompson*, 56 F(2d) 642.

48.245 MINORITY OF WAR VETERANS NOT TO AFFECT THEIR CONTRACTS FOR LOANS.

Amended by L. 1947 c. 178 s. 1.

"Contract for loan" means any note, mortgage, or contract incidental to a loan, executed by a minor veteran. OAG April 9, 1946 (29-A-20).

48.27 LIMITATION ON AMOUNT OF DEPOSITS.

Amended by L. 1947 c. 11 s. 1.

48.28 LIQUIDATION, UNLESS DEPOSITS ARE REDUCED.

Amended by L. 1947 c. 11 s. 2.

48.29 PAYMENT OF FORGED OR RAISED CHECK; LIABILITY; NOTICE TO DEPOSITOR.

While exceptional circumstances may imply such power, it is the general rule that an attorney engaged to make a collection has no implied authority to endorse for his client a check received in payment of the claim. *Rosacker v Commercial State Bank*, 191 M 553, 254 NW 824.

Long acquiescence and delay of four years in making a claim, all to the prejudice of the defendant, estops plaintiff from setting up forgery. By his conduct plaintiff has factually ratified the action of his pledgee in endorsing his name upon the checks. *Theelke v Northern States Power Co.* 192 M 330, 256 NW 236.

The bank paid out the entire proceeds of the check. It received from the drawee bank only the amount it had disbursed. An action in *indebitatus assumpsit* for money had and received will not lie against one who has not been unjustly enriched. *Soderlin v Marquette National Bank*, 214 M 408, 8 NW(2d) 331.

Protection against forgery. Duty of depositor to call for passbook. 5 MLR 142.

Estoppel through failure to examine passbook and return voucher. 7 MLR 236.

Protection against forgery. Negligence of drawer of check may preclude him from setting up forgery of payee's signature. 18 MLR 469.

Forged endorsement of checks. Liability of collecting bank. 27 MLR 583.

48.30 DEPOSITS BY MINOR OR IN TRUST; JOINT DEPOSITS.

A deposit in a savings account in the name of the depositor as trustee for another with the right to withdraw the whole or any part thereof or otherwise revoke the trust creates a tentative trust only, valid under our statutes, but revocable by the depositor during his lifetime and enforceable by the beneficiary as an irrevocable trust only after the depositor's death. *Rickel v Peck*, 211 M 576, 2 NW(2d) 140.

Joint bank account; joint tenancy; presumption of gift as between husband and wife. 4 MLR 72, 537.

Bank liability relating to fiduciary accounts. 13 MLR 242.

Deposit in name of depositor in trust for another. A form of testamentary disposition. 14 MLR 701.

48.33 EXECUTION OF TRUST.

National banks as executors. 9 MLR 66.

48.34 BRANCH BANKS PROHIBITED.

Taxation problems in branch banking. 15 MLR 767.

48.38 POWERS AND DUTIES.

Where by an extension agreement a bank has agreed to pay a mortgage for the purpose of protecting other security, on payment of the mortgage note it is entitled to an assignment of the note and mortgage to enforce it against the land as against its debtor. *Nippolt v Farmers' & Merchants' State Bank*, 186 M 325, 243 NW 136.

The Renville State Bank qualified as testamentary trustee of Martin Melsness and deposited the trust fund in its bank and commingled it with funds and assets of the bank. Such deposit was wrongful, and the bank became a trustee ex maleficio as to such trust fund, and plaintiff, as successor trustee, has preference as against the funds in the hands of the receiver. *Henton v Renville State Bank*, 194 M 524, 261 NW 8.

Absent an agreement to the contrary, a depository bank upon which a check is drawn becomes the debtor of the one who deposits the check to his account upon entry in the depositor's passbook. *White Brokerage Co. v. Cooperman*, 207 M 239, 290 NW 790.

Provisions in a passbook requiring depositor to examine canceled checks and bank statements and to report errors or discrepancies within ten days is reasonable and in the instant case binding upon the depositor. *Brunswick v Northwestern National*, 214 M 370, 8 NW(2d) 333.

A deposit is a chose in action, and when made, becomes part of a mass of property within the state whose transfer and devolution is subject to state control. L. 1943, c. 620, does not purport to do more than does any other regulation of devolution of bank accounts of missing or unknown persons, a function clearly within the state's competence. *State v Northwestern National*, 219 M 471, 18 NW(2d) 569.

Interest earned on money deposited with a clerk of court adheres to the deposit and belongs to the person entitled to the deposit. OAG Dec. 16, 1944 (144b-18).

Revocability of trust deposits in savings banks. 4 MLR 57.

Liability for negligence of correspondent bank. 8 MLR 58.

Deposit of funds held by bank as executor with itself as constituting wrongful mingling of funds. 17 MLR 318.

Liability of bank to depositor: premature set-offs. 25 MLR 941.

48.39 TRUST ACCOUNTS RECORDED.

Tracing trust funds in insolvency cases. 13 MLR 39.

48.47 BANKING AND TRUST COMPANY BUSINESS CARRIED ON.

National banks as trustees under the federal reserve act. 1 MLR 232.

48.49 BOOKS TO BE KEPT.

The record books of banks and financial corporations subject to state banking department supervision, when shown to be the regular record books, are admissible

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in evidence without further proof of the correctness of the entries therein. *Watson v Gardner*, 183 M 233, 236 NW 213.

48.50 DEMAND DEPOSITS; INTEREST, WHEN NOT PAID ON.

Power of national banks to pledge assets as security for deposits of federal governmental agencies. 25 MLR 368.

48.521 DEFINITIONS.

Under provisions of L. 1943, c. 620, only personal property abandoned by its owner is involved. While at common law such property was not subject to escheat, but subject only to right of appropriation by the sovereign as bona vacantia, such right of appropriation, except as limited by state law and the fourteenth amendment, exist in the several states. L. 1943, c. 620, is a valid and constitutional enactment; it includes national banks; the procedural steps required by the act constitute due process; and the six-year statute of limitations is not available to the depository bank. *State v Northwestern National*, 219 M 471, 18 NW(2d) 569.

48.522 ABANDONED FUNDS ESCHEAT TO STATE.

Regulation of abandoned deposits; validity of state statute as applied to national banks. 25 MLR 106.

48.523 PRESUMPTION AS TO ABANDONED FUNDS.

While a legal presumption is not evidence, it is a rule of law dictating decision, and, absent opposing facts, the presumption shifts the burden of going forward with the evidence to the party claiming otherwise. In the instant case, there was no opposing proof, hence the bank's duty of going forward has not been met. *State v Northwestern National*, 219 M 473, 18 NW(2d) 569.

48.525 ESCHEATED FUNDS.

The procedure under L. 1943, c. 620, so far as it affects depositors, is in its nature a proceeding in rem, the res having been seized by attachment prior to service of process. The act does not confiscate property or property rights; nor alter contracts of deposit; and there are no unusual or harsh means of enforcement employed. The statute of limitations is not available to a bank in respect to cashier's checks, certified checks, or certificates of deposit. Overruling *Mitchell v Easton*, 37 M 335, 33 NW 910, in so far as it holds to the contrary. *State v Northwestern National*, 219 M 471, 18 NW(2d) 569.

L. 1943, c. 620, is a valid and constitutional enactment. It rightfully includes national banks. The procedural steps required by the act for its enforcement constitute due process, and the six-year statute of limitations is not available to the depository bank as to any banking credits involved in present litigation. *State v Northwestern National*, 219 M 479, 18 NW(2d) 569.

48.65 TRUST COMPANIES TO COMPLY WITH CERTAIN LAWS.

12 USCA, section 807, is not an effort of the congress to broaden and enlarge the charter power of state institutions which are in the permitted class to serve as such agents as the extent of the power of such institutions rests exclusively with the state, and whether they may guarantee such loans is dependent upon state law. *Federal Land Bank v Crookston Trust Co.* 180 M 319, 230 NW 797.

48.67 CAPITAL OF TRUST COMPANIES.

A bank or trust company stockholder has a common-law right to inspect bank's books and records whether or not inspection statute is applicable to a trust company or bank. The purpose of keeping and filing lists of stockholders is to furnish information to public officials for taxation purposes, to stockholders to ad-

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wise the names of other voting stockholders, and to creditors desiring to enforce liability. *State v Crookston Trust*, 222 M 17, 22 NW(2d) 913.

48.73 POWERS AND DUTIES.

Guarantees of promissory notes by state banks and trust companies are ultra vires where the financial corporation has no beneficial interest. *Federal Land Bank v Crookston Trust Co.* 180 M 319, 230 NW 797.

Trust companies have only such powers as are granted them by the state. *Trusteeship of First Minneapolis Trust Co.* 202 M 187, 277 NW 899.

48.76 POWERS OF COURT; ANNUAL REPORT TO THE COURT AND TO THE COMMISSIONER.

The district court has the power, with jurisdiction in personam of trustees and beneficiaries, to settle by order annual accounts of the trustees and to direct disposition of trust property. Such orders are in essence judgments, binding as such upon the parties and rendering their subject matter res judicata. *Trusteeship under Will of Melgaard*, 200 M 494, 274 NW 641.

48.77 PROCEDURE UPON VIOLATION OF LAW OR INSOLVENCY.

Effect of fact that debt to or from the bank is not due at the time of insolvency. 14 MLR 385.

48.78 AGENT OR ATTORNEY IN FACT, ACTING AS.

Statutory provisions relating to trust companies should be strictly complied with. A trust company cannot lawfully transfer and sell securities owned by it to an estate of which it is the trustee. *Larson v Security Bank*, 178 M 209, 226 NW 697.

48.79 ACTING AS ASSIGNEE, RECEIVER, OR EXECUTOR.

Upon the finding that the trustee had negligently invested the trust funds in worthless securities, and had been unfaithful in its trust, the trial court was justified in surcharging the trustee's account and deny fees for services, expenses, and attorney fees. *Trusteeship under Will of Rosenfeldt*, 185 M 425, 241 NW 573.

Guardianships are commitments under the probate code. 20 MLR 333.

48.80 COMPENSATION; COMMISSION NOT DEEMED INTEREST.

In the absence of manifestation of intent to seek reimbursement for expenditures made for trust administration expenses, failure to make a charge for such expenses over a period of many years, during which successive distributions or accumulations of income were made, coupled with a violation of a trust provision plainly and expressly requiring that payment or provision for payment be made prior to such distribution and accumulation of income, is evidence of an intent to waive any and all right to reimbursement for such expenses. *In re Butler's Trusts*, 223 M 196, 26 NW(2d) 204.

In the absence of clear and unambiguous language manifesting an intent of the settlor to the contrary, a trust provision authorizing the employment by the trustee of such clerks and other persons as it shall deem requisite, proper, and convenient to the execution of the trust does not authorize the trustee to make a charge against the trust estate for disbursements incurred for ministerial services such as those involved in the routine chore of keeping accurate and complete bookkeeping records and in preparing periodical administration accounts which are usually and normally performed by a trustee in return for his compensation. *In re Butler's Trusts*, 223 M 196, 26 NW(2d) 204.

48.82 DEPOSIT OF TRUST AND OTHER FUNDS RECEIVED.

Where the state's attorney general and its banking department have for a long period of years construed the applicable statutes to grant powers to trust

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companies to receive commercial deposits subject to check, and where the legislature made no effort to amend the statutes, the courts should not depart from such construction. *State ex rel v Crookston Trust Co.* 203 M 512, 282 NW 138.

Corporate trust liability for misappropriation by fiduciary of fiduciary funds in bank. 17 MLR 405.

48.83 DEPOSIT WITH TRUST COMPANY INSTEAD OF A LARGER BOND.

The court did not abuse its discretion in requiring the individual trustee acting in conjunction with corporate trustees to give a bond of only \$50,000 when the assets of the trust were valued in excess of a million and a quarter dollars, that amount being ample protection in view of the manner of operation. *Butler v Builders Trust Co.* 203 M 555, 282 NW 462.

48.84 CORPORATE TRUSTEE; INVESTMENT OF TRUST FUNDS; COM-MINGLING FUNDS.

Amended by L. 1947 c. 234 s. 1.

Testator's intent controls investments of trust created by will, and neither court, legislature nor trust beneficiary may substitute its or his discretion for that of the testator. *In re Jones Will*, 221 M 526, 22 NW(2d) 637.

Amortization of premiums and accumulation of discounts. 20 MLR 203.

Investment of fiduciary funds in life insurance policies and annuities. 25 MLR 298.