

SENATE No. 412

The Commonwealth of Massachusetts

SENATE, May 18 (P.M.), 1932.

The committee on Bills in the Third Reading, to which was referred the Bill relative to the rights and obligations of trust companies in relation to certain of their depositors who are likewise borrowers from such companies (Senate, No. 165), reports recommending that the same be amended by substituting therefor a new draft entitled "An Act relative to the Right of Certain Depositors in Trust Companies to set off or recoup [their Deposits against Secured or Unsecured Indebtedness to Such Companies" (Senate, No. 412); and that, when so amended, the same will be correctly drawn.

For the committee,

NEWLAND H. HOLMES.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Thirty-Two.

An Act relative to the Right of Certain Depositors in Trust Companies to set off or recoup their Deposits against Secured or Unsecured Indebtedness to Such Companies.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter one hundred and seventy-two of the
2 General Laws is hereby amended by adding at the
3 end, under the caption, SET OFF or RECOUPMENT
4 of DEPOSITS, the following new section:—

5 *Section 82.* A person indebted to such a cor-
6 poration in its commercial department may, in a
7 proceeding for the collection of such indebtedness
8 or for the enforcement of any security therefor,
9 recoup or set off the amount of a deposit held and
10 owned by him in said department at the time of
11 the commencement of such proceeding, and a
12 person indebted to such a corporation in its
13 savings department may, in such a proceeding,
14 set off or recoup a deposit so held and owned by
15 him in such department; provided, that if in
16 either case a proceeding in equity has been com-
17 menced to restrain the corporation from doing its
18 actual business or if the commissioner has taken

19 possession of such corporation as provided in
20 section twenty-two of chapter one hundred and
21 sixty-seven, no deposit shall so be recouped or set
22 off by any such person unless held and owned by
23 him on the date of the commencement of such
24 proceeding or of possession so taken. Any
25 indebtedness against which a deposit is permitted
26 to be set off or recouped as aforesaid may be
27 secured or unsecured. Section three of chapter
28 two hundred and thirty-two shall not apply to a
29 set-off hereunder. Notwithstanding the fore-
30 going, a judgment shall not be rendered against
31 such corporation in favor of the defendant or
32 defendants for any balance found due from the
33 plaintiff if the commissioner has taken possession
34 of such corporation, as hereinbefore provided.
35 The word "deposit", as used in this section, shall
36 include interest due thereon.

10 possession of such corporation as provided in
20 section twenty-two of chapter two hundred and
21 sixty-two, to have full and complete effect
22 all powers and authorities that he had and ought to
23 have on the date of the commencement of such
24 corporation or of its reorganization or return. And
25 the person or persons who shall be named in a
26 certificate of incorporation or of reorganization
27 shall be deemed to have accepted the same and
28 to have taken the oaths and qualifications required
29 by law for the office of officers and directors of
30 corporations at the time of the filing of the
31 certificate of incorporation or of reorganization,
32 and to have taken the oaths and qualifications
33 required by law for the office of officers and
34 directors of corporations at the time of the
35 filing of the certificate of incorporation or of
36 reorganization, and to have taken the oaths and
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