

on logical and reasonable grounds. In the Virginia case *supra*, the Court said: "This [actual exhibition] is requisite in order that the drawer or acceptor may be able to judge (1) of the genuineness of the instrument; (2) of the right of the holder to receive payment; (3) that he may immediately reclaim possession of it, upon paying the amount. If, on demand, the exhibition of the instrument is not asked for, and the party of whom demand is made decline on other grounds, a formal presentment by actual exhibition of the paper is considered as waived."

It is not very clear in the principal case whether the decision rests on waiver or whether the court held that under the circumstances there was a substantial exhibition. The court says the presentment was "sufficient as an exhibition" and then cites the following cases based on waiver: *Legg et al v. Vinal et al.* (1895), 165 Mass. 555, 43 N. E. 518; *King v. Crowell* (1873), 61 Me. 244. The court also cites *Gilpin v. Savage* (1908), 60 Misc. Rep. 605, 112 N. Y. S. 802, another waiver case where demand made over the telephone was held sufficient. But this decision was reversed, 201 N. Y. 169, 94 N. E. 656, even though the position of the lower court in holding that for every purpose of demand and refusal, the telephone conversation was just as effective as in case of actual presence, is not without merit. The facts of that case, however, may be distinguished from those of the principal case.

Though the decision in the instant case can be justified on the basis of waiver, it would seem that the court kept well within the bounds of reason in holding, if such was the case, that there was a substantial exhibition of the note when the notary went to the maker with the note and said it was in his possession. The court in *King v. Crowell, supra*, classifies actual exhibition when the maker expresses no desire to see the note and refuses to pay, as an "idle ceremony," and quotes from Shaw, C. J., who spoke for the court in *Gilbert v. Dennis* (1842), 3 Met. 497: "Even under the law of tender, which is extremely strict, it is held that where a party to whom a tender is made declares that he will not accept it, an actual production and offer of money is not necessary."

W. V. W., '30.

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CONSTITUTIONAL LAW—POLICE POWER—REGULATION OF BUILDING AND LOAN ASSOCIATIONS.—On account of abuses which have arisen out of building and loan associations and their practises, they are controlled today by special legislation designed to protect the investors and shareholders.

An act approved at the 1927 session of the Missouri Legislature created a Bureau of Building and Loan Supervision, declaring its jurisdiction, assigning to it the powers theretofore exercised by the State Department of Finance over building and loan associations, providing for the administrative officers and personnel of such bureau, fixing their compensation, and expressly repealing all previous inconsistent acts. Laws of Missouri, 1927, p. 123.

R. S. Mo. 1919, Sec. 10229 provided for a building and loan bureau under the management of a building and loan supervisor. This statute which

was not as specific as the present law, was repealed by an act approved by the 1921 session of the Missouri Legislature, which act created a State Department of Finance and assigned to it, *inter alia*, the duties and jurisdiction of the old bureau of building and loan supervision.

The reason for such legislation is that, while a building and loan association is a corporation incorporated very much as any other, yet from its very nature it is open to more abuses by its directors and is a matter of greater concern to its shareholders. Because it has these extraordinary features it is more closely watched and its conduct is subject to more regulation than the ordinary corporation.

Such restrictions upon building and loan associations requiring them to obtain licenses from a supervisor who is appointed by the state, have been held constitutional as a reasonable exercise of the police power of the state; for the state has the power to enact legislation that will protect the public from fraud and oppression. *State ex rel. Hickman v. Preferred Tontine Merc. Co.* (1904), 184 Mo. 160, 82 S. W. 1075, writ of error dismissed *Preferred Tontine Merc. Co. v. State of Missouri ex rel. Hickman* (1905), 199 U. S. 614. This decision declared that the Laws of Missouri, 1903, p. 110, conferring regulatory powers on a supervisor of building and loan associations, was constitutional. See also *Mechanics Building etc. Assn. v. Coffman* (1913), 110 Ark. 269, 162 S. W. 1090; *Brady v. Mattern* (1904), 125 Ia. 158, 100 N. W. 358, 106 Am. St. Rep. 291; *People's Bldg. etc. Assn. v. Billing* (1895), 104 Mich. 186, 62 N. W. 373.

Legislation which regulates building and loan associations and provides for their incorporation may be divided into two classes. One class sets up a board with supervision as its sole object; the other type gives supervisory power to a department or bureau of the state already formed, which has other duties as well. This latter class of legislation usually confers such power upon the state auditor, the treasurer, or the state banking commissioner. The second kind of legislation predominates in the United States. Missouri's latest law is characteristic of the more modern, but at present the minority class.

California, Kansas, and Oregon have legislation similar to Missouri's, setting up a board with supervision as its sole object. Cal. Stat. 1911, p. 607, as amended Stat. 1925, p. 253, and 1926, p. 626; R. S. Kan. 1923, Ch. 17, Sec. 17025; Ore. Genl. Laws 1927, p. 216.

The statutes of Colorado, Florida, Georgia, Illinois, Kentucky, Louisiana, New York, Oklahoma, and Virginia are exemplary of the second type of legislation. See: Comp. Laws Colo. 1921, Ch. 44, Sec. 2809; Comp. Gen. Laws Fla., Sec. 6181 *et seq.*; Ga. Code 1926, Secs. 2878-2898; Ill. Rev. Stat. 1927, Ch. 32, Sec. 214; Carroll's Ky. Stat. 1922, Sec. 854b; Marr's Ann. Rev. Stat. La. 1915, Sec. 775; Cahill's Consol. Laws of New York, 1928, 3:375; Ok. Gen. Laws, Secs. 5418-5431. G. N. B., '29.