cision was by a bare majority of the court while the *Jones* opinion was based upon the precedent of the former. As the court in the principal case clearly shows the *Selleck* case was decided upon statutes which were repealed by the legislature in 1919. These statutes, R. S. Mo. (1909) secs. 956-960, provided that the court should have power only to suspend an accused from practice until the facts were ascertained in the criminal trial; the record of conviction or acquittal should be *conclusive* of the facts. The majority in the *Selleck* case interpreted these provisions to mean that an acquittal compelled the court to dismiss the disbarment proceedings. In 1919 what is now R. S. Mo. (1929) sec. 11712, was enacted to replace the "excuse for this judicial aberration." It provides, "If the attorney be acquitted or discharged upon his trial . . . the Court shall forthwith hear the evidence offered in support of said charge and the evidence offered by the accused, and shall determine the matter without delay."

The *Richards* decision, even had the 1909 statutes been in effect, would have been the same for the court says, "any statutory enactment undertaking to make an acquittal in a criminal prosecution a bar to such an investigation would be, as heretofore suggested, an unconstitutional encroachment of the legislative upon the judicial department of government. . . . it certainly does not follow that after acquittal thereon these same acts may not be charged and proved as reasons for disbarment if they in fact show that respondent is unfit to continue in the practice of the law." Generally the statutory grounds of disbarment are not exclusive and in those states where the legislature has attempted to specify causes for disbarment it is the rule that the courts may suspend or remove for other causes than those mentioned in the statute. 2 Thornton, Attorneys at Law, 759 and cases cited.

This declaration of the Supreme Court of Missouri that it has inherent power to disbar any attorney, regardless of statute, for any conduct that renders him unfit for the proper performance of his duties as an officer of court is a great step forward. It is at least a healthy tendency toward the development of the bar on a higher ethical plane. S. M., '34.

BANKS AND BANKING—DEPOSIT OF CHECK INDORSED IN BLANK—EFFECT OF INSOLVENCY OF COLLECTING BANK.—A bank accepted for deposit from the payee, giving immediate credit therefor, a check drawn by a loan association on another bank, and indorsed by payee in blank. The first bank subsequently failed to open for business, and depositor instructed the loan association to stop payment on the check. The bank now sues to recover the amount thereof. *Held:* Reversing the decision of the Springfield Court of Appeals (1932) 52 S. W. (2d) 608, for the loan association, on the ground that the Bank Collection Code made the bank only an agent of the depositor, who could therefore at any time revoke the agency, stop payment on the check, and himself collect directly from the other bank. *Farmers Exchange Bank of Marshfield v. Farm & Home Savings & Loan Assn. of Missouri* (Mo., 1933) 61 S. W. (2d) 717.

The common law rule according to "the great weight of authority supports the proposition that when a customer presents a check or draft to the bank for deposit, non-restrictively indorsed, and the bank gives him credit therefor, prima facie, the bank becomes the owner of the instrument and the

debtor of the depositor for the amount credited." Townsend, Bank Deposits of Commercial Paper (1929) 7 N. Y. U. Law Rev. 293, l. c. 312; 3 R. C. L. 152.

This was clearly the rule in Missouri prior to the adoption of this Code. *Ayres v. Farmers and Merchants Bank* (1883) 79 Mo. 421; *Mudd v. Farmers and Merchants Bank of Hunnewell* (1913) 175 Mo. App. 398; 162 S. W. 314.

This is the first reported case involving Section 2 of the new Uniform Bank Collection Code (R. S. Mo. 1929, sec. 5567.) The pertinent words of this section are as follows: "Except as otherwise provided by agreement . . . where an item is deposited or received for collection, the bank of deposit shall be agent of the depositor for its collection. . . ." This apparently operates as a direct change from the common law rule and the Code was so interpreted in the principal case.

But the construction of this section has not been uniform. The Court of Appeals in refusing to accept this change in the law, held that the very circumstances under which this deposit was made were facts sufficient to constitute such an implied agreement to the contrary, to which the section refers, and thus establish the relationship of debtor and creditor, as at common law. The Supreme Court, however, in reversing this decision, held that they could not "give effect to an implied agreement of the sale of the check to the bank, implied, if at all, from the very facts which the statute says shall not change the agency relation."

In *Lawton v. Lower Main St. Bank* (S. C., 1933) 170 S. E. 469, subsequently decided by the Supreme Court of South Carolina, the Court, without referring to the Missouri case, held that Section 2 of the Code applies to an item which "is deposited for collection or is received for collection," and consequently does not apply to ordinary deposits. This, however, seems to be a construction, which although a logical enough deduction from the language employed by the act, reaches a conclusion contrary to the apparent intent of the draftsman both as expressed by the statute and in his notes thereto. To avoid this confusion and possible misinterpretation, the statute should be amended to make the relation between bank and depositor one of agency where "an item is received for collection or is deposited." Townsend, The Bank Collection Code of the American Bankers' Association (1933) 8 Tulane L. Rev. 21, l. c. 27, f. n. 11.

This Code, passed early in 1929, was sponsored by the American Bankers' Association, and since, in most cases, it is to the advantage of the bank to be considered an agent rather than a purchaser, it would seem that the Missouri Supreme Court has reached a correct interpretation of the act. The National Conference of Commissioners on Uniform State Laws was of the opinion "That the Code drafted by the Counsel for the American Bankers' Ass'n was not adequate, and that an act should be drafted for submission to this Conference and when approved, recommended for adoption by the several states." Handbook of the Nat'l Conf. of Comm. on Unif. State Laws (1929) p. 250. This act, not yet approved by the Commission, is now in the form of a third tentative draft. Handbook of the Nat'l Conf. of Comm. on Unif. State Laws (1931) p. 256. This proposed act expressly repudiates the doctrine expressed in Section 2 of the Bank Collection Code, and chooses to abide by the common law rule which states the overwhelming weight of authority in this country and England, that the bank, in ordinary cases of deposit of checks, is a purchaser of the check.

Standing in the way, however, of the success of the Uniform Commissioners in their efforts to preserve this established common law doctrine is the fact that the present Bank Collection Code has already been adopted by 18 states, and it is not likely that these states will readily consent to another such radical change in their banking laws. So looking to the future, and assuming the completion of the Uniform Act now pending, it seems likely that the American states will again be divided into two groups on this question, such as they were when the present common law rule was being developed. Those having adopted the Bank Collection Code sponsored by the American Bankers Ass'n will no doubt follow the principal Missouri case and recognize the agency relationship; and those which choose to adopt the act proposed by the members of the Uniform State Laws Commission, along with those which do not adopt either code, will retain the present common law view, which treats the bank as a purchaser of the paper. Thus these attempts at uniformity will probably not only result in a failure of their ultimate purpose, but will on the contrary create an even greater conflict than existed prior to the enactment of this legislation. I. J. W., '35.

CONSTITUTIONAL LAW—EMINENT DOMAIN—GOLD REQUISITIONING.—The recovery legislation gradually begins to reap a judicial harvest. A recent case continues the already notable tendency to furnish old legal implements in support of the present labor. On an indictment in two counts for failure to comply with executive order of August 28, 1933, demanding returns to be made regarding gold held in possession, and that of April 5, 1933, requisitioning such supplies, *held*, the first order is a valid exercise of the currency powers of the national government. The requisitioning order was pronounced invalid because promulgated by the President and not by the Secretary of the Treasury, as provided by the statute. The court, however, seized the opportunity to elaborate a lengthy dictum justifying the requisition on the basis of eminent domain. *United States v. Campbell* (D. C. S. D. N. Y. 1933) 5 Fed. Supp. 156.

The power of Congress to regulate gold is a corollary of its generously defined currency control. Const. art. 1, sec. 8, clauses 2, 5, 18: *Veazie Bank v. Fenno* (1869) 8 Wall. 533; *Legal Tender Cases* (1870) 12 Wall. 457; *Juilliard v. Greenman* (1884) 110 U. S. 421. In a somewhat analogous case the Phillipine legislature, acting under authority delegated by Congress, was held validly to have prohibited the export of Phillipine silver coin. *Ling Su Fan v. United States* (1910) 218 U. S. 302.

In applying the doctrine of eminent domain to the requisitioning of gold certain superficial difficulties are entailed. In time of war the sphere of governmental requisition is practically unlimited. *The Lever Act for Food Control* (1917) 40 Stat. 276. The court in the instant case, however, bases its justification rather on the essential nature of eminent domain than on any attempted analogy between the present predicament and a state of war. The cases are permeated with dicta extending the rule to all forms of property whether personal or real. *United States v. Lynah* (1903) 188 U. S. 445, at p. 465. Actually, however, the occasions on which property other than real has been appropriated are relatively few; although, when such have presented themselves the courts have not been loath to apply the doctrine. Patent