

1914

INVESTMENT COMPANIES ACT

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maturity of said bonds, the said treasurer shall, in the presence of the governor, proceed to draw by lot such an amount of bonds as shall be requisite to exhaust as nearly as may be the amount in said sinking fund at that time, and shall thereupon and before the tenth day of June following, give notice by public advertisement to be inserted twice a week for two weeks in two newspapers published in the city and county of San Francisco, and also in one newspaper published in the city of Oakland, and also in one newspaper published in the city of Los Angeles, and also in one newspaper published in the city of Sacramento, stating the number of bonds so drawn and that the principal of said bonds will be paid on presentation to the treasurer on or before the second day of July, following, and that from and after such last named date, all interest upon bonds thus drawn shall cease, and it shall be the duty of the treasurer as soon as said bonds so drawn by lot are surrendered to him and paid to cancel the same, and the interest coupons thereon, and each year beginning with the year nineteen hundred and fifty-five, the said treasurer shall in the manner aforesaid, proceed to draw by lot such an amount of bonds as shall be requisite to exhaust as nearly as may be the amount in said sinking fund, and proceed in the manner hereinabove stated. In the event that the state treasurer employs moneys in said sinking fund in the purchase of any bonds authorized, issued and sold under authority of this act, than at the time in this section provided for the drawing of bonds by lot, and immediately preceding such drawing the state treasurer shall retire and cancel any bonds in said sinking fund authorized, issued and sold under authority of this act, and the amount in said sinking fund remaining at the time shall constitute the amount for the purposes of such drawing. After the payment of all said bonds, the surplus or balance remaining in said sinking fund, if any there be, shall forthwith be paid into the San Francisco harbor improvement fund. At the time of the respective drawings by lot, as aforesaid, and also at the maturity of said state bonds, said treasurer shall sell the United States or other bonds then in said sinking fund, except bonds authorized, issued and sold under authority of this act, at governing market rates, after advertising the sale thereof in the manner hereinbefore provided for the sale of bonds hereby authorized to be issued, and shall use the proceeds for the payment of such bonds as may be drawn by lot, and at the maturity of said bonds outstanding shall pay and redeem said matured outstanding bonds out of said moneys in said fund in extinguishment of said bonds on controller's warrants duly drawn for that purpose.

Sec. 6. The state controller and the state treasurer shall keep full and particular account and record of all their proceedings under this act, and they shall transmit to the governor an abstract of all such proceedings thereunder, with an annual report, to be by the governor laid before the legislature biennially; and all books and papers pertaining to the matter provided for in this act shall at all times be open to the inspection of any party interested, or the governor, or the attorney general, or a committee of either branch of the legislature, or a joint committee of both, or any citizen of the state.

INVESTMENT COMPANIES ACT.

Submitted to electors by referendum.

Creates state corporation department. Authorizes governor to appoint commissioner of corporations who shall employ necessary deputies, fix their compensation, have control over investment companies and investment brokers and power of examination thereof as in state banks; prohibits issuance of securities before investigation by commissioner, regulates issuance and sale thereof, taking subscriptions therefor, advertisements and circulars respecting same; creates fund from official fees and declares salaries and expenses payable therefrom; provides for broker's permit and agent's certificate, reports by companies and brokers, appeal to court from commissioner's decision, and penalties for violations.

WHEREAS, the legislature of the State of California, in regular session in May, 1913, passed, and the governor of the State of California, on the 28th day of May, 1913, approved a certain law and act, which law and act, together with its title, is in the words and figures following, to wit:

An act to define investment companies, investment brokers, and agents; to provide for the regulation, supervision and licensing thereof; to provide penalties for the violation thereof; to create the office of commissioner of corporations, and making an appropriation therefor.

Thirty-eight

Sec. 7. It shall be the duty of the state treasurer to pay the interest of said bonds, when the same falls due, out of the sinking fund provided for in this act, on controller's warrants duly drawn for that purpose.

Sec. 8. This act, if adopted by the people, shall take effect on the thirty-first day of December, nineteen hundred and fourteen, as to all its provisions except those relating to and necessary for its submission to the people, and for returning, canvassing, and proclaiming the votes, and as to said excepted provisions this act shall take effect ninety days after the final adjournment of the session of the legislature passing this act.

Sec. 9. This act shall be submitted to the people of the State of California for their ratification at the next general election, to be holden in the month of November, nineteen hundred and fourteen, and all ballots at said election shall have printed thereon and at the end thereof, the words, "For the San Francisco harbor improvement act of 1913," and in the same square under said words the following, in briefer type: "This act provides for the improvement of San Francisco harbor and for the payment of all costs thereof out of San Francisco harbor improvement fund." In the square immediately below the square containing said words, there shall be printed on said ballot the words: "Against the San Francisco harbor improvement act of 1913," and immediately below said words "Against the San Francisco harbor improvement act of 1913" in briefer type shall be printed "This act provides for the improvement of San Francisco harbor and for the payment of all costs thereof out of the San Francisco harbor improvement fund." Opposite the words, "For the San Francisco harbor improvement act of 1913" and "Against the San Francisco harbor improvement act of 1913," there shall be left spaces in which the voters may make or stamp a cross to indicate whether they vote for or against said act, and those voting for this act shall do so by placing a cross opposite the words "For the San Francisco harbor improvement act of 1913," and all those voting against the said act shall do so by placing a cross opposite the words "Against the San Francisco harbor improvement act of 1913." The governor of this state shall include the submission of this act to the people, as aforesaid, in his proclamation calling for said general election.

Sec. 10. The votes cast for or against this act shall be counted, returned and canvassed and declared in the same manner and subject to the same rules as votes cast for state officers; and if it appear that said act shall have received a majority of all the votes cast for and against it at said election as aforesaid, then the same shall have effect as hereinbefore provided, and shall be irrevocable until the principal and interest of the liabilities herein created shall be paid and discharged, and the governor shall make proclamation thereof; but if a majority of the votes cast as aforesaid are against this act then the same shall be and become void.

Sec. 11. It shall be the duty of the secretary of state to have this act published in at least one newspaper in each county, or city and county, if one be published therein, throughout this state, for three months next preceding the general election to be holden in the month of November, nineteen hundred and fourteen, the costs of publication shall be paid out of the San Francisco harbor improvement fund, on controller's warrants duly drawn for that purpose.

Sec. 12. This act may be known and cited as the "San Francisco harbor improvement act of 1913."

Sec. 13. All acts and part of acts in conflict with the provisions of this act are hereby repealed.

The people of the State of California do enact as follows:

Section 1. This act shall be known as the "Investment companies act."

Sec. 2. (a) The term "investment company," when used in this act, includes every private corporation, association, copartnership and company, which shall within this state, sell, offer for sale, negotiate for the sale of or take subscriptions for any stock, stock certificate, bond or other evidence of indebtedness of any kind or character, issued or to be issued by itself,

other than promissory notes not offered to the public by the maker thereof.

(b) The term "security," when used in this act, includes the stock, stock certificates, bonds, and other evidences of indebtedness, other than promissory notes not offered to the public by the maker thereof, of an investment company.

(c) The term "investment broker," when used in this act, includes every corporation, association, copartnership, company and person who shall within this state regularly engage in the business of selling, offering for sale or negotiating for the sale, as agent or contractor, of any security of more than one investment company. The term "contractor" means any one who undertakes to sell securities for an investment company for a commission or other consideration.

(d) The term "agent," when used in this act, includes every corporation, association, copartnership, company and person who shall within this state sell, offer for sale, negotiate for the sale of or take subscriptions for any security of an investment company, either as an employee on a salary basis or for a commission, if acting either for the investment company or an investment broker.

(e) The term "sale," when used in this act, means the original transfer of title of its own securities from an investment company for any valuable consideration.

Sec. 3. This act shall not apply to corporations, associations, copartnerships, companies, firms and individuals now or hereafter subject to the jurisdiction or authority of the railroad commission, nor to corporations, associations, copartnerships, companies, firms and individuals after they have secured from the state banking department, the insurance commissioner or the bureau of building and loan supervision a certificate of authority or license to do business within this state, nor to corporations, associations, copartnerships or companies, subject to federal regulation or not organized for profit, nor to mutual water companies and irrigation districts, nor to the stocks, stock certificates, bonds or other evidences of indebtedness of such corporations, associations, copartnerships, companies, firms or individuals.

Sec. 4. (a) Before selling, offering for sale, negotiating for the sale, or taking subscriptions for, any security of any kind character, each investment company shall file in the office of the commissioner of corporations of this state, an application for permission so to do, together with a filing fee, as hereinafter prescribed, an itemized statement of its financial condition, in such form and detail as the commissioner of corporations may prescribe, a copy of all contracts which it proposes to make with or sell to the public, a certified copy of its charter, articles of incorporation or articles of association and all amendments thereto, and such additional information pertaining thereto as the commissioner of corporations may, from time to time, prescribe. Said filing fee shall be five dollars if the par or face value of said security amounts to twenty-five thousand dollars or less; ten dollars if the par or face value of said security amounts to over twenty-five thousand dollars and not over fifty thousand dollars; fifteen dollars if the par or face value of said security amounts to over fifty thousand dollars and not over seventy-five thousand dollars; twenty dollars if the par or face value of said security amounts to over seventy-five thousand dollars and not over one hundred thousand dollars; and twenty-five dollars if the par or face value of said security amounts to over one hundred thousand dollars.

(b) If the investment company does not desire to sell its securities to the public the commissioner of corporations may make his written finding to that effect. Upon the filing of said finding the investment company and its securities shall be exempt from the provisions of this act until the commissioner of corporations makes and files his order setting aside said finding. The commissioner of corporations shall have power to make his order setting aside said finding if he finds that the investment company is selling its securities to the public, or for other good cause.

(c) If such company is organized or created under or by virtue of the laws of any other state, territory or government, it shall also file in the office of the commissioner of corporations a certified copy of the law or laws under which it is organized or incorporated, and all amendments thereto, and also, in such form as the commissioner of corporations may prescribe,

in written instrument, irrevocable, appointing the commissioner of corporations or his successor in office its true and lawful attorney, upon whom all process in any action or proceeding

against it may be served with the same effect as if said company were organized or created under the laws of this state and had been lawfully served with process therein. Service upon such attorney shall be deemed personal service upon such company. The commissioner of corporations shall forthwith forward by mail, postage prepaid to the person designated by such company by written instrument filed with the commissioner of corporations at the address given in said instrument, or, in case no such instrument has been filed, to the secretary of such company at its last known post office address, a copy of every process served upon him under the provisions of this section. For each copy of process, the commissioner of corporations shall collect the sum of two dollars, which shall be paid by the plaintiff or moving party at the time of such service, to be recovered by him as part of his taxable costs, if he succeeds in the suit or proceedings. Service shall not be deemed complete until said fee has been paid, and said copy of process mailed as hereinbefore directed.

Sec. 5. It shall be the duty of the commissioner of corporations to examine the statement and other information so filed, and he may, if he deems it advisable, make, or have made, at applicant's cost as hereinafter in this act specified, a detailed examination, audit and investigation of the investment company's affairs, providing that the investment company may at its option, in writing, refuse to have such examination, audit or investigation made, whereupon the commissioner of corporations must reject the application. If he finds that the proposed plan of business of the investment company is not unfair, unjust, or inequitable the commissioner of corporations shall issue to the investment company a certificate, authorizing it to sell securities, as therein specified within this state, reciting that the company has complied with the provisions of this act, that detailed information concerning the investment company and its securities is on file in the office of the commissioner of corporations and that the investment company is authorized to sell said securities within this state on such conditions, if any, as the commissioner of corporations may in said certificate prescribe. Said certificate shall recite in bold type that the issuance of this certificate is permissive only and does not constitute a recommendation or endorsement of said securities. The commissioner of corporations may impose such conditions as he may deem necessary to the issue of said securities, and may, from time to time, for cause, rescind, alter or amend the certificate. If the commissioner of corporations finds that the proposed plan of business of the investment company is unfair, unjust, or inequitable or that it does not intend to do a fair and honest business, he shall refuse to issue the certificate and shall notify the investment company in writing of his decision. It shall be unlawful to issue any security to which this act is applicable unless a certificate or a temporary permit authorizing the issue thereof shall first have been secured from the commissioner of corporations as provided in this act; and it shall further be unlawful for any investment company, investment broker or agent as in this act defined, to sell, offer for sale, negotiate for the sale of or take subscriptions for any stock, stock certificate, bond or other evidence of indebtedness of any kind or character without exhibiting to the prospective purchaser or prospective purchasers of such securities, or any thereof, a copy of the certificate issued to such investment company in accordance herewith. A corporation may without applying for a certificate under the provisions of this act issue to each of its directors one share of stock for the purpose of qualifying as directors. The commissioner of corporations, if satisfied that the investment company intends to do a fair, just and equitable business, may, forthwith upon the filing of the statement and other papers required by section four of this act, issue to said investment company, upon such conditions as he may prescribe, a temporary permit to issue its securities pending the examination of said statement and other papers, and may, from time to time, for cause, rescind, alter or amend said temporary permit.

Sec. 6. The provisions of sections four and five of this act, in so far as applicable, shall apply to investment brokers: provided, that the commissioner of corporations may, if he finds that the applicant has a good business reputation and deals only in good securities, issue to an investment broker a general permit entitling such investment broker to sell securities within this state, authorized by him, until the first of March following, when it will be necessary to secure a new general permit. For each such general permit the commissioner of corporations shall charge the sum of five dollars. Such general permit, however, shall be

subject to revocation by the commissioner of corporations at any time for cause appearing to him sufficient. The commissioner of corporations shall forthwith mail written notice of such revocation to the investment broker.

Sec. 7. Any investment company or investment broker may appoint one or more agents, but it shall be unlawful for any such agent to do any business as specified in this act until he shall have secured from the commissioner of corporations a certificate authorizing him to represent such investment company or investment broker within this state until the first of March following, when it will be necessary to secure a new certificate. For each certificate the commissioner of corporations shall charge the sum of one dollar. Such certificate, however, shall be subject to revocation by the commissioner of corporations at any time for cause appearing to him sufficient.

Sec. 8. The commissioner of corporations shall have general supervision and control, as provided in this act, over any and all investment companies and investment brokers, and all such investment companies and investment brokers shall be subject to examination by the commissioner of corporations or a duly authorized deputy at any time the commissioner of corporations may deem it advisable to have such examination made to carry out any provision of this act, and in the same manner and with the same powers as is now, or may hereafter be provided for the examination of state banks. Such investment company or investment broker shall pay to the commissioner of corporations, for each examination, a fee of ten dollars and traveling expenses for each day or fraction thereof that he or his deputy shall necessarily be absent from his office for the purpose of making such examination, and the failure or refusal of any investment company or investment broker to pay such fee upon the demand of the commissioner of corporations shall work a forfeiture of its or his rights to sell any further securities in this state until such fee shall have been paid to the commissioner of corporations, with interest at the rate of seven per cent from the time of the demand of the commissioner of corporations and an additional twenty-five per cent of such fee by way of penalty.

Sec. 9. It shall be unlawful for any investment company, investment broker or agent to issue, circulate or deliver any advertisement, pamphlet, prospectus, circular or statement or other document in regard to securities which it desires to sell in this state until after such investment company, investment broker or agent shall have been licensed to sell such securities as provided in this act. It shall be unlawful for any such licensed investment company, investment broker or agent to issue, circulate or deliver any such advertisement, pamphlet, prospectus, circular, statement or other document, unless the same shall be signed with the name of the investment company or investment broker and bear a serial number and a copy thereof shall first have been filed with the commissioner of corporations. The commissioner of corporations may for cause object to any such advertisement, pamphlet, prospectus, circular, statement or other document, whereupon it shall be unlawful for such investment company, investment broker or agent to further issue, circulate or deliver such advertisement, pamphlet, prospectus, circular, statement or other document.

Sec. 10. (a) Every investment company, until it shall have sold all the securities authorized by the commissioner of corporations and disposed of the proceeds thereof, shall file in the office of the commissioner of corporations, under date of December 31st and June 30th of each year, and within fifteen days after said dates, and also at such other times as may be required by the commissioner of corporations, a report setting forth in such form as the commissioner of corporations may prescribe, the securities authorized by him and sold under the provisions of this act, the proceeds derived therefrom, the disposition of such proceeds and such other information concerning its affairs relating to the subject matter of this act, as the commissioner of corporations may require.

(b) Every investment broker shall when called upon by the commissioner of corporations file in his office a report giving such information as he may call for, relating to the securities, the sale of which has been authorized under the provisions of this act.

Sec. 11. All papers, documents, reports and other instruments in writing filed with the commissioner of corporations under this act shall be open to public inspection; provided, that if in his judgment the public welfare or the welfare of any investment company demands that any portion of such information be not made public he may withhold such information from public inspection for such time as in his judgment is necessary.

Forty

Sec. 12. An appeal may be taken from any decision of the commissioner of corporations under this act by filing with the clerk of the superior court of the State of California, in and for the city and county of San Francisco, a certified transcript of the papers in the office of the commissioner of corporations relating to such decision. It shall be the duty of the commissioner of corporations to make and certify to said transcript upon payment to him of a fee of ten cents for each folio and one dollar for the certification. The court shall upon such appeal be limited to a consideration of the question whether there has been abuse of discretion on the part of the commissioner of corporations in making such decision.

Sec. 13. Any person who shall knowingly or wilfully subscribe to or make or cause to be made any false statement or false entry in any book of any investment company or investment broker, or exhibit any false paper with the intention of deceiving any person authorized to examine into its affairs, or who shall make or publish any false or misleading statement of its financial condition or concerning the securities by it offered for sale, shall be guilty of a misdemeanor and shall be punishable by a fine not exceeding one thousand dollars or by imprisonment in a county jail not exceeding one year or by both such fine and imprisonment.

Sec. 14. Any corporation, association, copartnership or company which violates or fails to comply with any of the provisions of this act, or which fails, omits or neglects to obey, observe or comply with any order, decision, demand or requirement, or any part or provision thereof, of the commissioner of corporations under the provisions of this act, is subject to a penalty of not less than five hundred dollars nor more than two thousand dollars for each and every offense, which penalty if unpaid after demand by the commissioner of corporations shall be recovered in an action brought in the name of the people of the State of California by the attorney general.

Sec. 15. Every person who violates or fails to comply with any of the provisions of this act or who fails, omits or neglects to obey, observe or comply with any order, decision, demand or requirement, or any part or provision thereof, of the commissioner of corporations under the provisions of this act in any case in which a different penalty is not specifically provided, is guilty of a misdemeanor and is punishable by a fine of not exceeding one thousand dollars, or by imprisonment in a county jail not exceeding one year, or by both such fine and imprisonment.

Sec. 16. There is hereby created a state corporation department. The chief officer of such department shall be the commissioner of corporations. He shall be appointed by the governor and hold office at the pleasure of the governor. He shall receive an annual salary of five thousand dollars, to be paid monthly out of the state treasury upon a warrant of the controller. He shall within fifteen days from the time of notice of his appointment take and subscribe to the constitutional oath of office and file the same in the office of the secretary of state and execute to the people of the state a bond in the penal sum of ten thousand dollars with corporate security or two or more sureties, to be approved by the governor of the state, for the faithful discharge of the duties of his office.

Sec. 17. The commissioner of corporations shall employ such clerks and deputies as he may need to discharge in proper manner the duties imposed upon him by law. Neither the commissioner of corporations nor any of his clerks or deputies shall be interested in any investment company, or investment broker, as director, stockholder, officer, member, agent or employee. Such clerks and deputies shall perform such duties as the commissioner of corporations shall assign to them. He shall fix the compensation of such clerks and deputies which compensation shall be paid monthly on the certificate of the commissioner of corporations, and on the warrant of the controller out of the state treasury; provided, however, that the total expenditures provided for in this act shall not exceed fifty thousand dollars per annum. Each deputy shall within fifteen days after his appointment take and subscribe to the constitutional oath of office and file the same in the office of the secretary of state.

Sec. 18. The commissioner of corporations shall have his office in the city of Sacramento and he shall from time to time obtain the necessary furniture, stationery, fuel, light and other proper conveniences for the transaction of the business of the state corporation department, the expenses of which shall be paid out of the state treasury on the certificate of the commissioner of corporations and the warrant of the controller.

Sec. 19. A fund is hereby created to be known as the "corporation commission fund" and out of said fund shall be paid

all the expenses incurred in and about the conduct of the business of the corporation department, including the salary of the commissioner and his clerks and deputies, traveling expenses, furnishing rooms and rent. All moneys collected or received by the commissioner of corporations under and by virtue of the provisions of this act shall be delivered by him to the treasurer of the state, who shall deposit the same to the credit of said corporation commission fund. And all such fund so deposited or such part thereof as may be necessary for the purposes of this act are hereby appropriated to the use of the corporation commission fund for the purposes of this act. It shall be the duty of the commissioner of corporations semi-annually to certify under oath to the state treasurer and secretary of state the total amount of receipts and expenditures of the state corporation department for the six months preceding. All fees and payments of every description required by this act to be paid to the commissioner of corporations shall be paid by him to the state treasurer on the first day of each week following their receipt by the commissioner of corporations.

Sec. 20. The commissioner of corporations shall adopt a seal with the words "Commissioner of Corporations, State of California," and such other device as the commissioner of corporations may desire engraved thereon by which he shall authenticate the proceedings of his office. Copies of all records and papers in the office of the corporation department shall be received in evidence of all cases equally and with like effect as the originals.

Sec. 21. Every official report made by the commissioner of corporations and every report, duly verified, of an examination made, shall be prima facie evidence of the facts therein stated for all purposes in any action or proceedings wherein any investment company or investment broker is a party.

Sec. 22. If any section, sub-section, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this act. The legislature hereby declares that it would have passed this act, and each section, sub-section, sentence, clause, and phrase thereof irrespective of the fact that any one or more other sections, sub-sections, sentences, clauses or phrases be declared unconstitutional.

Sec. 23. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Sec. 24. The sum of ten thousand dollars is hereby appropriated out of any moneys in the state treasury not otherwise appropriated for the purpose of carrying this act into effect.

Sec. 25. This act shall take effect November 1, 1913.

AND WHEREAS, said regular session of the said legislature finally adjourned May 12, 1913, and ninety days having not expired since said final adjournment;

Now, therefore, sufficient qualified electors of the State of California have presented to the secretary of state their petitions asking that said law and act hereinbefore set forth, so passed by the legislature and approved by the governor, as hereinbefore stated, be submitted to the electors of the State of California for their approval or rejection.

ARGUMENT IN FAVOR OF INVESTMENT COMPANIES ACT.

This is the "Blue Sky Law," so-called.

Its purpose is to provide for the protection of investors in stocks and bonds of corporations:

First—By preventing the sale, or offering for sale, by a corporation of stocks or bonds until such corporation has submitted to the commissioner of corporations (an officer created by the act) its plan of business, place of business, amount of stock or bonds to be issued, authorized capital stock, its property or assets, etc., and shall have obtained from such commissioner a license or permit to sell its stocks or bonds.

Second—By preventing the false or fraudulent advertising of such stocks or bonds, by requiring such corporation to submit all such advertising to such commissioner of corporations, who shall have power to prohibit any false or misleading advertising.

Third—By providing for the appointment of a commissioner of corporations with powers and duties very similar to those of the superintendent of banks. In fact, the statement of the duties and powers is largely copied from the Bank Act; and the commissioner of corporations is to exercise toward corporations in general, duties similar to those exercised toward banks by the superintendent of banks; those exercised toward insur-

ance corporations by the insurance commissioner; those exercised toward public utilities by the railroad commission; and those exercised toward the building and loan corporations by the building and loan commissioner.

The act is intended to protect the investing public against the purchase of worthless or fraudulently issued stocks and bonds, by providing a supervision of the corporations offering such stocks and bonds for sale and by compelling such corporations to show that the plan under which they propose to operate is measurably, at least, businesslike, with reasonable prospect of success; and by preventing the issuance of false, deceptive and misleading representations with respect to such stocks and bonds. It is intended to furnish protection to the credulous investor, usually the poor investor, who has no means at his own command to make such an investigation as is necessary to insure him protection in his investments. The necessity for the act grew out of the many swindling sales of stocks and bonds by vicious or irresponsible corporations having no tangible or sufficient assets or honest or rational plan of business. It is believed to be as fairly safeguarded as is possible for the protection of the public, and at the same time sufficiently flexible to allow legitimate business to continue without unnecessary interference. LEX C. GATTS,

State Senator Thirty-fourth District.

ARGUMENT AGAINST INVESTMENT COMPANIES ACT.

If this bill would prevent fraudulent transactions in securities without interfering with legitimate development, it should receive favorable consideration. This act provides that one man will determine whether or not a given plan of business is fair, just, or equitable, and will then authorize the sale of securities by issuing a certificate reciting in bold type that its issuance is permissive only and does not constitute a recommendation or endorsement of the securities.

It is not within the range of possibility that any one man can individually determine whether the multitude of plans of business that will be submitted to him are fair, just, or equitable. It is not possible within the range of reasonable economy for this to be done by the employment of assistants. Based upon actual experience of the failure of seemingly good plans, the commissioner may refuse certificates in almost ninety per cent of the applications. It is the intent to protect against fraud, yet many enterprises may be denied development by reason of a consideration of such failures, and the development which comes from the legitimate speculative tendency of the small investor, by reason of which tendency great development has been made possible, would be greatly retarded. Initiative and development being then dependent upon the banking interests must largely cease and the business of the state will stagnate.

The act also provides for the regulation of all corporations, firms or co-partnerships engaged in miscellaneous business which may desire to issue any form of acknowledgment of indebtedness (excepting notes not offered for public sale), and such regulation is open to the objection that it is not practicable, for the same reasons—one man can not do it, and a corps of assistants necessary for the purpose would involve the state in enormous expense, out of proportion with the good to be accomplished. Legitimate business in the state by virtue of investigations provided may be subjected to unnecessary expense and annoyance. It opens an avenue for vicious corruption.

Provision made for the certificates that the securities may be offered for sale, and which may be issued as a result of the plausible showing of those most gifted in the art of deception, would offer to the swindler the most telling device for deceiving the ignorant.

The measure is wrong in principle. It will not be effective and its drastic application to legitimate enterprise will inflict more damage than the good it will accomplish.

FRANCIS V. KESSELING.

Four-ones