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L. L. Briggs

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Treasury Stock and General Corporation Statutes

BY L. L. BRIGGS

Having had occasion to make a study of the statutory law relative to treasury stock it occurred to me that a summary of the results of this investigation might be helpful to those who are interested in accounting.

First, let us consider the definition of treasury stock. According to the Ohio (*General Code*, sec. 8623-2) statutes treasury stock means shares issued and thereafter acquired by the corporation. In Rhode Island (*General Laws*, ch. 248, sec. 53, as amended ch. 1735, *Public Laws 1931* and ch. 1941, *Public Laws 1932*) treasury shares are those which have been issued and are owned or held by the corporation.

Next, let us determine the conditions under which a corporation may purchase its own stock. Alaska (*Compiled Laws*, ch. 8, sec. 8), Arkansas (*Corporation Statutes 1931*, ch. 1, art. 2, sec. 7), Florida (*Corporation Laws 1925*, art. 4, sec. 8), Louisiana (*General Corporation Laws 1928*, sec. 23), Maryland (*Annotated Code 1924*, art. 23, sec. 50, as amended *Laws 1931*, ch. 480), Ohio (*General Code*, sec. 8623-41), South Dakota (*Revised Code*, part 17, ch. 1, art. 2, sec. 8777), and Tennessee (*Public Acts 1929*, ch. 90, sec. 12) permit a corporation to purchase its own shares from surplus assets over liabilities and capital. California (*Civil Code 1931*, div. 1, part. 4, tit. 1, ch. 10, sec. 342) allows purchases only from earned surplus while Louisiana (*General Corporation Laws 1928*, sec. 23) specifies that the surplus must be that available for dividends and the purchase must not violate the contractual right of any other class of shares. In Maryland (*Annotated Code 1924*, art. 23, sec. 50, as amended *Laws 1931*, ch. 480) the surplus available for the purchase of a corporation's own shares may include that created by reduction of capital stock. North Dakota (*Compiled General Laws*, ch. 12, sec. 4531) generally requires that the purchase be made from surplus profits but the corporation's articles may provide otherwise and with the unanimous consent in writing of all stockholders the purchase may be made from capital. Oklahoma (*Compiled Statutes 1921*, sec. 5320) has similar provisions. Nevada (*General Corporation Laws 1925*, sec. 9, as amended 1931, 420) is even more liberal, for it allows a corporation to pur-

chase its own shares of stock with capital, capital surplus, surplus or other property or funds. Ohio (*General Code*, sec. 8623-41) provides that a purchase from surplus must be properly authorized and must not favor any shareholder over another.

According to the New York penal law (*Consolidated Laws*, ch. 40, sec. 664) the directors of a corporation are guilty of a misdemeanor if they apply any funds except surplus to the purchase of shares of its own stock.

The statutes of Colorado (*Annotated Statutes (Mills, 1924)* sec. 996), Delaware (*General Corporation Law*, art. 1, sec. 19), Indiana (*General Corporation Act 1929*, art. 1, sec. 3), Michigan (*General Corporation Laws 1931*, sec. 10), Missouri (*Revised Statutes*, sec. 10151, as amended laws 1927, p. 394), Nevada (*General Corporation Law 1925*, sec. 9, as amended 1931, 420), Rhode Island (*General Laws*, ch. 248, sec. 5) and West Virginia (*Corporation Laws 1930*, art. 1, sec. 39) permit a corporation to purchase its own stock if its capital is not impaired by such purchase. It is interesting to note that an earlier Colorado (*Annotated Code (Mills, 1921)* sec. 996) statute forbade a corporation to acquire treasury stock by purchase.

In Connecticut (*Revised Statutes 1930*, ch. 191, sec. 3423) a corporation may purchase its own shares, but it must not render itself insolvent by so doing nor may it purchase such shares when insolvent. California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 10, sec. 342) and Ohio (*General Code*, sec. 8623-41) prohibit such purchases if there is reasonable ground for believing that the company is unable or the purchase will make it unable to satisfy its obligations and liabilities. Maryland (*Annotated Code 1924*, art. 23, sec. 50, as amended laws 1931, ch. 480) provides that the purchase must not reduce assets to less than the liabilities and capital and if a purchase is made when the corporation is insolvent the persons receiving payment are liable to the corporation, its trustees or receivers to the extent of such payment for the debts existing at the time of payment. California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 14, sec. 365) holds purchasing shareholders to a similar liability. Connecticut (*Revised Statutes 1930*, ch. 191, sec. 3423) makes the directors personally liable for the debts of the corporation existing at the time if they assent to purchases when the corporation is insolvent or is rendered insolvent thereby.

The statutes of Michigan (*General Corporation Laws 1931*, sec. 10) and Rhode Island (*General Laws*, ch. 248, sec. 5) allow corporations to "acquire" their own stock while the laws of Indiana (*General Corporation Act 1929*, part 2, art. 1, sec. 3) state that a corporation may "own" its shares.

Several states, including Illinois (*General Corporation Act*, sec. 6) New Jersey (*General Corporation Act 1896*, ch. 185, sec. 1, as amended to end of 1932) and Wisconsin (*Revised Statutes*, 182.01 and 182.05), expressly permit a corporation to purchase personal property necessary to carry on its business. Since shares of a corporation's own stock are personal property it is permissible for a company to acquire treasury stock for legitimate corporate purposes in these jurisdictions.

Some states require the approval of stockholders before allowing corporations to acquire treasury stock by purchase. In Connecticut (*Revised Statutes 1930*, ch. 191, sec. 3423) a corporation must secure the approval of stockholders owning three-fourths of the entire capital stock at a stockholders' meeting warned and held for that purpose. Louisiana (*General Corporation Laws 1928*, sec. 23) requires the affirmative vote of two-thirds of the voting power of each class of shares outstanding when the purchase is for purposes other than those specified. Ohio (*General Code*, sec. 8623-41) permits a purchase of this kind when it is authorized by the vote of two-thirds of each class of stock outstanding under conditions named. South Dakota (*Revised Code*, part 17, ch. 1, art. 2, sec. 8777) merely specifies that the stockholders' approval is necessary for the purchase.

California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 10, sec. 342), Connecticut (*Revised Statutes 1930*, ch. 191, sec. 3423), Kentucky (*Statutes*, ch. 32, art. 1, sec. 544), Louisiana (*General Corporation Laws 1928*, sec. 23), Ohio (*General Code*, sec. 8623-41), Vermont (*General Laws*, tit. 25, ch. 210, sec. 4920), and Virginia (*Revised Code*, ch. 147, sec. 3807, as amended to 1932) permit a corporation to acquire its own stock in satisfaction of an antecedent debt. California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 10, sec. 342), Louisiana (*General Corporation Laws 1928*, sec. 23), and Ohio (*General Code*, sec. 8623-41) allow a corporation to collect or compromise in good faith a debt, claim or controversy with any stockholder. Connecticut (*Revised Statutes 1930*, ch. 191, sec. 3423) permits a corporation to take its own stock in order to prevent loss upon a debt previously contracted without the usual

approval of the holders of three-fourths of the outstanding stock. In Vermont (*General Laws*, tit. 25, ch. 210, sec. 4920) a corporation may acquire its own shares in payment or partial payment of a debt.

Alaska (*Compiled Laws*, ch. 8, sec. 7), California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 9, sec. 336), Idaho (*Compiled Statutes 1919*, sec. 4745), Maine (*Revised Statutes 1930*, ch. 56, sec. 46, as amended public laws 1931, ch. 183), Massachusetts (*General Laws*, tit. 22, ch. 156, sec. 20), Philippine Islands (*Corporation Act*, secs. 44, 45), and West Virginia (*Corporation Laws 1930*, ch. 31, art. 1, sec. 34) have statutes to the effect that corporations may forfeit shares for non-payment of calls or assessments. Maine (*Revised Statutes 1930*, ch. 56, sec. 46, as amended *Public Laws 1931*, ch. 183), Montana (*Revised Code 1921*, ch. 7, sec. 5985), South Dakota (*Corporation Laws*, part 17, ch. 1, art. 5, sec. 8807), and Virginia (*Revised Code*, ch. 147, sec. 3807, as amended to 1932) allow a corporation to purchase its shares sold at auction for assessments in default of a bidder. In California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 10, sec. 336) and Idaho (*Compiled Statutes 1919*, sec. 4745) the defaulting shares must be sold at public auction and only in the absence of other bidders may the stock be purchased by the company. Utah (*Corporation Laws*, sec. 913, as amended to 1932) also permits a corporation to purchase its own shares sold at auction for assessments if no one bids the amount of the assessment and its expense. The law requires this stock to be treated as treasury stock.

In Arizona (*Revised Statutes 1928*, ch. 14, sec. 586) a corporation may purchase its shares sold at public auction for non-payment of subscriptions. Massachusetts (*General Laws*, tit. 22, ch. 156, sec. 20) provides that a corporation may take its stock if a judgment against a subscriber is unsatisfied for thirty days.

Statutes of California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 10, sec. 342), Indiana (*General Corporation Act 1929*, part 2, art. 5, sec. 37), Kentucky (*Statutes*, ch. 32, art. 1, sec. 558), Maryland (*Annotated Code 1924*, art. 23, sec. 35), Massachusetts (*General Laws*, ch. 156, sec. 46), New Hampshire (*Public Laws*, ch. 225, secs. 54, 55, 56, 57), Ohio (*General Code*, sec. 8623-41), New York (*Stock Corporation Law*, secs. 14, 21, 38, 87, 105), Rhode Island (*General Laws*, ch. 248, sec. 56), and Tennessee (*Public Acts 1929*, ch. 90, sec. 41) permit a corporation to buy out dissenting stockholders in case of radical corporation changes

such as mergers or consolidations. In Maryland, Ohio, and Tennessee, dissenters are paid only if sufficient funds are available or if enough assets remain to satisfy corporate obligations. The uniform business corporation act (Sec. 42-3) states that rights of dissenters must yield to the superior rights of creditors.

According to the statutes of Arkansas (*Corporation Statutes 1931*, ch. 1, art. 4, sec. 24), Alabama (*Corporation Laws*, ch. 274, art. 4, sec. 7003), Delaware (*General Corporation Law*, art. 1, sec. 28), Florida (*Corporation Law 1925*, art. 6, sec. 22), Maryland (*Annotated Code 1924*, art. 23, sec. 50, as amended *Laws 1931*, ch. 480), New Jersey (*General Corporation Act 1896*, ch. 185, sec. 29, as amended and supplemented to end of 1932), and Porto Rico (*Private Corporations Act 1916*, sec. 16a) a corporation may reduce its capital stock by purchasing its own shares. The Alabama law is that, after authorization to reduce capital, a corporation may purchase its own shares for retirement but must not pay above par for them. In New Jersey the shares may be purchased pro rata from the stockholders or on the open market. The Rhode Island (*General Laws*, ch. 248, sec. 53, as amended ch. 1735, *Public Laws 1931* and ch. 1941, *Public Laws 1932*) statute provides that a corporation may reduce its capital by retiring treasury shares upon vote of the directors and upon complying with the conditions of the charter or articles relating to retirement. In Ohio (*General Code*, sec. 8623-39) treasury shares not subject to redemption may be retired and stated capital reduced by the directors. Indiana (*General Corporation Act 1929*, art. 1, sec. 6) specifically permits directors to cancel treasury stock.

In Alaska (*Compiled Laws*, ch. 8, sec. 8), California (*Civil Code 1931*, div. 1, part 7, tit. 1, ch. 10, sec. 342), Louisiana (*General Corporation Laws 1928*, sec. 23), Maryland (*Annotated Code 1924*, art. 23, sec. 50, as amended *Laws 1931*, ch. 480), and Ohio (*General Code*, sec. 8623-41) a corporation may purchase its own shares subject to redemption or to carry out provisions of its articles authorizing conversion of its shares. The Ohio (*General Code*, sec. 8623-39) statute requires these shares to be carried as treasury stock until redeemed.

California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 10, sec. 342) allows a corporation to purchase its own shares in case of merger with another corporation and also permits it to take its own shares when assets of another corporation are distributed.

The Ohio (*General Code*, sec. 8623-41) provides that a corporation may purchase its own shares for resale to stockholders or otherwise when the articles provide that it shall have a right to preëmption when any stockholder desires to sell his shares or on the happening of any event is required to sell his stock.

Several states, including California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 10, sec. 342), Colorado (*Annotated Statutes (Mills, 1924)*), and Maryland (*Annotated Code 1924*, art. 23, sec. 50, as amended *Laws 1931*, ch. 480), allow a corporation to acquire its own shares by gift or bequest.

In California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 10, sec. 342), Louisiana (*General Corporation Laws 1928*, sec. 23) and Ohio (*General Code*, sec. 8623-41) a corporation may purchase its own stock from an employee other than an officer or a director under an agreement to repurchase. Both Louisiana and Ohio permit a company to acquire treasury stock for resale or allotment to employees.

The statutes of California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 10, sec. 342) and Ohio (*General Code*, sec. 8623-41) make it legal for a corporation to purchase its own stock for the purpose of avoiding the issuance of or to eliminate fractional shares.

As early as 1850 the legislature of Georgia (*Penal Code 1850*, ch. 9, 6th div., sec. 43) enacted a statute making the purchase by a corporation of its own stock a misdemeanor and subjecting the president and directors to fine and imprisonment for its violation. At present only a few jurisdictions have direct statutory prohibition of the creation of treasury stock through purchase. California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 10, sec. 342) prohibits but allows many exceptions, while Kentucky (*Statutes*, ch. 32, art. 1, sec. 544) and Wyoming (*Compiled Statutes*, sec. 5056) forbid purchase but permit a corporation to take its own stock to prevent loss on a debt previously contracted. However, such stock must not be held for more than one year.

Germany does not permit a corporation to purchase its own shares, except to make possible the amortization of shares as provided in the articles (*Commerce Code*, art. 266). In England the 1929 companies act (19 & 20 Geo. V, ch. 23, sec. 45) by implication forbids a company to purchase its own stock.

National banks are expressly prohibited from purchasing or holding their own shares except where necessary to save loss on debts previously contracted in good faith. This stock must be

sold within six months, at public auction if necessary, or the bank may be dissolved (12 U. S. C. A, sec. 83; 1 *Mason's Code*, tit. 12, sec. 83).

The general corporation statutes of Connecticut (*Revised Statutes 1930*, ch. 191, sec. 3423) prohibit banks, trust companies and life-insurance companies from purchasing their own stock, while the corporation laws of West Virginia (*Corporation Laws 1930*, ch. 31, art. 1, sec. 39) provide that banks must not purchase their own shares. Most of the states have similar provisions in their banking laws.

The statutes of Alaska (*Compiled Laws*, ch. 8, sec. 8), Arkansas (*Corporation Statutes 1931*, ch. 1, art. 1, sec. 7), Colorado (*Annotated Statutes (Mills, 1924)*), Delaware (*General Corporation Laws*, art. 1, sec. 19), Florida (*Corporation Law 1925*, art. 4, sec. 8), Indiana (*General Corporation Act 1929*, part 2, art. 1, sec. 3), Kentucky (*Statutes*, ch. 32, art. 1, sec. 544), Maryland (*Annotated Code 1924*, art. 23, sec. 50, as amended *Laws 1931*, ch. 480), Michigan (*General Corporation Laws 1931*, sec. 10), Nevada (*General Corporation Laws 1925*, sec. 9, as amended 1931, 420), North Dakota (*Compiled General Laws*, ch. 12, sec. 4531), Ohio (*General Code*, sec. 8623-41), Oklahoma (*Compiled Statutes 1921*, sec. 5320), South Dakota (*Corporation Laws*, part 17, ch. 1, art. 2, sec. 8777), Tennessee (*Public Acts 1929*, ch. 90, sec. 12), Utah (*Corporation Laws*, sec. 913, as amended to 1932) and West Virginia (*Corporation Laws 1930*, ch. 31, art. 1, sec. 39) specifically state that a corporation may hold its own shares. According to the statutes of South Dakota (*Corporation Laws*, part 17, ch. 1, art. 2, sec. 8777) a corporation may hold treasury stock if authorized to do so by a resolution of the stockholders or by their unanimous consent in writing. In Vermont (*General Laws*, tit. 25, ch. 210, sec. 4920) treasury stock is not held by a corporation but is held in the name of trustees for the corporation and must be disposed of as soon as possible without loss or within five years. Utah (*Corporation Laws*, sec. 913, as amended to 1932) permits treasury stock to be held according to the corporate by-laws and if there are no by-laws such shares are held subject to the control of the board of directors.

In Montana (*Revised Code 1921*, ch. 7, sec. 5986), North Dakota (*Compiled General Laws*, ch. 12, sec. 4583), and South Dakota (*Corporation Laws*, part 17, ch. 1, art. 5, sec. 8808) the legal title to treasury stock is in the corporation and is subject

to the control of the stockholders, who may dispose of it as they see fit or according to the by-laws of the corporation. Alaska (*Compiled Laws*, ch. 8, sec. 7) permits treasury stock obtained by forfeiture to be reissued and subscriptions taken therefor, as in the case of shares not issued or subscribed.

According to the laws of Louisiana (*General Corporation Laws 1928*, sec. 23) acquired shares of a corporation's own stock are considered to be treasury stock until disposed of by sale or reduction of stated capital. The Maryland (*Annotated Code 1924*, art. 23, sec. 50, as amended *Laws 1931*, ch. 480) provides that if stock is purchased for retirement such stock has the status of authorized but unissued capital stock and may be retired without the proceedings necessary for the reduction of capital stock, but stock acquired by gift, bequest or purchase and not for retirement may be held or sold or otherwise disposed of from time to time for corporate purposes. The legislative enactments of California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 10, sec. 342) state that a corporation's own stock acquired by it is restored to the status of authorized but unissued shares, and stated capital is not reduced thereby. If the articles prohibit reissue, the authorized number is reduced to the extent of the shares so retired.

The California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 10, sec. 342) statutes provide that when a corporation purchases its own stock the earned surplus is reduced by an amount equal to the purchase price thereof.

When a corporation acquires its own shares in Connecticut (*Revised Statutes 1930*, ch. 191, sec. 3423) the president and treasurer within six months must file a certificate with the secretary of state giving the number of shares acquired.

In Rhode Island (*General Laws*, ch. 248, sec. 53, as amended ch. 1735, *Public Laws 1931* and ch. 1941, *Public Laws 1932*) the capital of a corporation is the amount of the assets up to the amount of the par value of outstanding shares, including treasury shares having par value, plus consideration received, including treasury shares. The statutes of this state provide that treasury shares shall not be included in assets when the assets of a corporation are computed. Stated capital includes treasury shares in Ohio (*General Code*, sec. 8623-37).

According to the Maryland law (*Annotated Code 1924*, art. 23, sec. 50, as amended laws 1931, ch. 480) the purchase by a corporation of its own stock does not release the liability of the

holder of stock not paid for in full, unless the assets of the corporation remaining immediately after such release shall not be less than the debts of the corporation plus the amount of its issued capital stock.

Treasury stock has no dividend rights according to the statutes of California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 10, sec. 342), Massachusetts (*General Laws*, tit. 22, ch. 156, sec. 20), and West Virginia (*Corporation Laws 1930*, ch. 31, art. 1, sec. 38). The laws of Massachusetts (*General Laws*, tit. 22, ch. 156, sec. 20), Montana (*Revised Code 1921*, ch. 7, sec. 5985), North Dakota (*Compiled General Laws*, ch. 12, sec. 4582), South Dakota (*Corporation Laws*, part 17, ch. 1, art. 5, sec. 8807) and Utah (*Corporation Laws*, sec. 913, as amended to 1932) are to the effect that no dividends shall be paid on stock forfeited for non-payment of subscriptions or assessments. All dividends are apportioned among the outstanding stock. Louisiana (*General Corporation Laws 1928*, sec. 26) prohibits dividends arising from profit on treasury stock before resale. Ohio (*General Code*, sec. 8623-4) permits the corporate articles to authorize the directors to fix or to alter the dividend rate on treasury stock.

Most of the states which allow a corporation to acquire its own stock prohibit the voting of this stock either directly or indirectly.

Arkansas (*Corporation Statutes 1931*, ch. 1, art. 1, sec. 7), California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 10, sec. 342), Florida (*Corporation Law 1925*, art. 4, sec. 8), Idaho (*Compiled Statutes 1919*), Louisiana (*General Corporation Laws 1928*, sec. 32), Montana (*Revised Code 1921*, ch. 7, sec. 5986), Nevada (*General Corporation Laws 1925*, sec. 9, as amended 1931, 420), New Jersey (*General Corporation Act 1896*, ch. 185, sec. 38, as amended to end of 1932), North Dakota (*Compiled General Laws*, ch. 12, sec. 4583), South Dakota (*Corporation Laws*, part 17, ch. 1, art. 3, sec. 8808), Tennessee (*Public Acts 1929*, ch. 90, sec. 12) and Utah (*Corporation Laws*, sec. 885, as amended to 1932) have statutes to the effect that treasury stock must not be counted as outstanding for stockholders' quorum or voting purposes. A majority of the remaining shares is a majority for purposes of voting at all stockholders' meetings.

Arkansas (*Corporation Statutes 1931*, ch. 1, art. 1, sec. 7), Delaware (*General Corporation Law*, art. 1, sec. 19), Indiana (*General Corporation Act 1929*, part 2, art. 1, sec. 3), Florida

(*Corporation Laws 1925*, art. 4, sec. 8), Michigan (*General Corporation Laws 1931*, sec. 10), Nevada (*General Corporation Laws 1925*, sec. 9, as amended 1931, 420), Rhode Island (*General Laws*, ch. 248, sec. 5), Tennessee (*Public Acts 1929*, ch. 90, sec. 12) and West Virginia (*Corporation Laws 1930*, ch. 31, art. 1, sec. 39) have statutes providing that corporations may sell and transfer their own shares which have been acquired. The laws of Alaska (*Compiled Laws*, ch. 8, sec. 8), Maine (*Revised Statutes 1930*, ch. 56, sec. 46, as amended *Public Laws 1931*, ch. 183), and Louisiana (*General Corporation Laws 1928*, sec. 23) state that a corporation may sell its treasury stock, while the statutes of North Dakota (*Compiled General Laws*, ch. 12, sec. 4531), Oklahoma (*Compiled Statutes 1921*, sec. 5320) and South Dakota (*Corporation Laws*, part 17, ch. 1, art. 2, sec. 8777) merely provide that a corporation may transfer such stock. In South Dakota this action requires a resolution of the stockholders or their unanimous consent in writing. Maryland (*Annotated Code 1924*, art. 23, sec. 50, as amended laws 1931, ch. 480) permits a corporation to sell or otherwise dispose of treasury stock for corporate purposes when the stock was not acquired for retirement. Utah (*Corporation Laws*, sec. 913, as amended 1932) allows a corporation to dispose of its treasury stock according to its by-laws or, if these are lacking, according to the wishes of the board of directors. In Kentucky (*Statutes*, ch. 32, art. 1, sec. 544), Vermont (*General Laws*, tit. 25, ch. 210, sec. 4920) and Wyoming (*Compiled Statutes Annotated 1920*) the selling of treasury stock is mandatory.

Let us now consider the selling price of treasury stock. Unless otherwise provided in the articles the board of directors may fix the price in Alaska (*Compiled Laws*, ch. 8, sec. 8), California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 10, sec. 342), Delaware (*General Corporation Laws*, art. 1, sec. 27), Indiana (*General Corporation Act 1929*, Art. 1, sec. 6), Louisiana (*General Corporation Laws 1928*, sec. 23), Ohio (*General Code*, sec. 8623-18), and West Virginia (*Corporation Laws 1930*, ch. 31, art. 1, sec. 40). In Louisiana (*General Corporation Laws 1928*, sec. 23) the price must not be less than the price paid when the stock was purchased by the corporation. According to the laws of Vermont (*General Laws*, tit. 25, ch. 210, sec. 4920) the trustees holding treasury stock for a corporation must sell such stock without loss if they can do so. Oklahoma (*Compiled Statutes*, sec. 5320)

and South¹Dakota (*Corporation Laws*, part 17, ch. 1, art. 2, sec. 8777) allow the stockholders to set the price.

California (*Civil Code 1931*, div. 1, part 4, tit. 1, ch. 10, sec. 342) requires that the consideration received when treasury stock is sold shall be added to stated capital or paid-in surplus.

✱ No shareholder has a preëmptive right to subscribe for shares held by a corporation as treasury stock, according to the statutes of Louisiana (*General Corporation Laws 1928*, sec. 28), Michigan (*General Corporation Laws 1931*, sec. 31) and Ohio (*General Code*, sec. 8623-35).

So far as I have been able to determine, Hawaii, Iowa, Kansas, Minnesota, Mississippi, Nebraska, New Mexico, North Carolina, Oregon, Pennsylvania, South Carolina, Texas, Washington and Wisconsin have no express provisions applicable to treasury stock in their general corporation statutes.

California, Louisiana, Maryland, Michigan, Nevada, Ohio and West Virginia recently have revised or rewritten their general corporation statutes, and they now have comprehensive and fairly harmonious provisions with respect to acquiring, holding and selling treasury stock which apparently meet the needs of present-day business. However, more than half of our jurisdictions have sketchy and inadequate statutory laws relative to treasury stock, while the legislative enactments of nearly a third of our states and territories contain no reference to this subject. It is hoped that future legislation in these jurisdictions will follow the trail blazed by the more enlightened states in the modernization of their general corporation statutes.