adian banking room month by month over the signature of the leading officials of each institution would be apt to direct attention to the miserably insufficient cash reserves of some chartered banks, and the figures might also serve as a warning to intending depositors therein. Objections to such a plan for impressing upon the public the need for caution in selecting a place of deposit for savings will be numerous; but close analysis of the figures representing the cash reserves of some of our chartered banks surely warrants a note of warning being sounded. There is a lot of sound sense in the following advice:

"It is of considerable importance to a business man to make a careful choice of a banker. This is a matter that is usually regulated by chance, personal preference, the solicitation of a friend, etc., instead of by a careful consideration of what is needed in a banker. The following points are suggested:—

1. Keep your account at the strongest bank that will admit you. Banks as well as customers are sometimes squeezed, and it is then that a strong bank appears to advantage."

How far it would be feasible to bring about an amalgamation of the smaller and weaker banks with stronger ones we cannot say, but the project is worth attention in the best interests not of bankers alone, but of the whole business community.

THE EQUITABLE LIFE WINS.

DECISION OF THE COURT OF APPEALS IN ITS FAVOR.

Appeal of Assurance Society in Greeff Suit for Division of Surplus Fund Sustained—Judgment of Appellate Division Reversed—Views of Higher Court Set Forth.

The New York "Commercial Bulletin" thus reports the judgment in the celebrated suit brought by Emil Greeff against the Equitable Life: A unanimous decision was handed down in the Court of Appeals this afternoon in the matter of the appeal of the Equitable Life Assurance Society from an order and judgment obtained by Emil Greeff, the respondent, in the Appellate Division of the Supreme Court, in the Second Department. This decision, of great interest to policy holders and of great importance to all companies engaged in the business of assuring lives, was written by Justice Martin, his associates concurring. The appeal was argued at Saratoga just before the summer recess, William B. Hornblower and Charles B. Alexander appearing for the Equitable Life and Dickinson W. Richards for Emil Greeff.

The litigation arose from the fact that on July 1, 1882, Emil Greeff, of New York, insured his life in the Equitable Life Assurance Society in the sum of $20,000 by a form of policy styled an endowment, having a period of 15 years. It was an annual dividend policy. On May 2, 1897, the policy matured and the society paid over to the assured the sum of $20,000, and dividends which accumulated to the amount of $3,932. Mr. Greeff was dissatisfied with the settlement, claimed that the society was holding back for its own use a portion of its surplus and sued for a further dividend of $7,087. To this complaint the society demurred, setting forth that the plaintiff "did not state facts sufficient to constitute a cause for action." Justice Joseph F. Daly sustained the demurrer. From this decision Mr. Greeff appealed to the Appellate Division of the Supreme Court. Justice Woodword, Cullen and Hatch sustained the appeal, reversing the decision of the trial judge, and Justice Goodrich dissented. From this decision the Equitable appealed in June last, and to-day Justice Martin wrote the opinion.

The opinion is a somewhat voluminous document. It is clear and decisive. It confirms the opinion of trial Judge Daly and liberally quotes Justice Goodrich. In the main the court holds that the plaintiff, Emil Greeff, cannot win on the equity side of the court in consequence of the fact that the Attorney-General did not bring the action, as statutes provide that all suits involving an accounting must be brought by, or with the approval of, the Attorney-General, and further, that he cannot win at law because, first, he is bound by the terms of his policy, and second, by the statutes. Justice Martin says: "At the threshold of this examination it is proper to observe that under the provisions of section 56 of the insurance law the plaintiff cannot maintain an action of proceedings for an accounting or enjoining, restraining or interfering with the prosecution of the business of the defendant or for the appointment of a receiver, except upon the application or approval of the Attorney-General."

Justice Martin then quotes the statute and observes: "If this action is to be regarded as an action for an accounting or as interfering with the prosecution of the defendant's business, it is prohibited by statute, as there is no allegation, claim or pretense of any application or approval by the Attorney-General." Justice Martin then proceeds to examine the complaint as to whether it states facts sufficient to constitute a cause of action. He says: "The point to be determined is whether the facts stated are sufficient to entitle the plaintiff to recover in an action at law upon the policy as an instrument for the payment of money, or to recover against the defendant for a breach of its contract."

In this examination he says: "By the terms of the plaintiff's contract he expressly ratified and accepted the principles and methods which were from time to time adopted by the defendant for the distribution of such surplus. The plaintiff's claim that the whole surplus should be distributed cannot be sustained if it is in conflict with the provisions of the contract between the parties without making a new contract for them, which the court will not do. It is to be observed that the agreement was that the plaintiff should participate not in the whole surplus, but in the distribution of the surplus, or, in other words, in the surplus which, according to its methods and principles, was to be distributed."

In referring to the opinion written by Justice Woodward, Justice Martin remarks: "We find nothing in the record to sustain the suggestion of the learned Appellate Division to the effect that the minds of the parties did not meet as to this provision in the contract. It was clearly a part of it, which was presumptively understood and deliberately entered into by them."

In regard to the surplus, the court held that in its opinion "until a distribution was made by the officers or managers of the defendant, the plaintiff had no such title to any part of the surplus as would enable him to maintain an action at law for its recovery. We think the principle which controls the disposition of surplus earnings of a stock corporation is applicable here. In these cases it has often been held that until dividends have been declared a stockholder had no right of action at law to recover any part of the fund applicable for that purpose. In a sense, all the funds in the possession of a mutual insurance company,