have been changed shall retain the classification obtaining before such retirement; provided, however, that, if under the charter the shares so retired may not be reissued, the authorized capital stock of the class to which such shares belong shall be deemed to have been reduced by the number of shares of such stock so retired.

(6) A reduction in the amount of the issued capital stock heretofore or hereafter made may be made the basis of distributions or payments to stockholders and of releases of the liability of stockholders whose shares have not been fully paid, to the extent of any surplus thereby created, provided the assets of the corporation remaining immediately after such distributions or payments or releases shall be not less than the debts of the corporation plus the amount of its issued capital stock as reduced. If any such reduction is made the basis of distributions or payments which reduce the assets of the corporation to an amount less than its debts plus the amount of its issued capital stock as reduced, the stockholders shall severally be and remain liable to the corporation or its receiver, trustee or other person winding up its affairs to the extent of the excessive distributions or payments to them respectively for the debts of the corporation existing at the time of such reduction.

(7) Except in the case of shares subject to redemption retired by purchase for retirement under paragraph (2) of Section 54 or by redemption and in the case of shares convertible into shares of another class retired by the conversion thereof, no reduction of the issued amount of capital stock shall be made except in the manner provided and subject to the provisions of this section.

(8) Nothing in this section shall be taken or construed as limiting or affecting the liability of stockholders in banking, safe deposit, trust or loan corporations.[1]

See notes to secs. 31, 43 and 403.

An. Code, 1924, sec. 33. 1912, sec. 29. 1904, secs. 45, 46, 47. 1888, sec. 39. 1868, ch. 471, sec. 36. 1892, ch. 666, sec. 39A. 1896, ch. 410, sec. 39B. 1908, ch. 240, sec. 29. 1916, ch. 596, sec. 29. 1920, ch. 327, sec. 29. 1935, ch. 551, sec. 33.

33. Any one or more corporations of this State having capital stock, heretofore or hereafter incorporated, may be consolidated with another such corporation of this State to form a new corporation, or may be merged into another such corporation of this State, in the manner following:

(1) If a consolidation into a new corporation is to be effected, there shall be an agreement of consolidation in which shall be set forth: (a) that the consolidating corporations have agreed to consolidate and thereby form a new corporation; (b) all other matters and facts required to be stated, and any further provisions which might be made, in a certificate of incorporation; (c) the total amount of the authorized capital stock of each of the consolidating corporations; (d) the total amount of capital stock of the new corporation to be issued for stock of the consolidating corporations, which amount may be greater or less than the total amount of the stock of the consolidating corporations then outstanding; (e) the terms and conditions of the proposed consolidation and the mode of carrying the same into effect, specifying the total amount of capital stock of each class of the new corporation to be issued for stock of each class of the con-

[1] See footnote to sec. 23.