

TITLE LXII.  
NATIONAL BANKS.

CHAPTER ONE.

ORGANIZATION AND POWERS.

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Formation of national banking associations.

3 June, 1864, c. 106, s. 5, v. 13, p. 100.

Requisites of organization certificate.

3 June, 1864, c. 106, s. 6, v. 13, p. 101.

How certificate shall be acknowledged and filed.

Ibid.

SEC. 5133. Associations for carrying on the business of banking under this Title may be formed by any number of natural persons, not less in any case than five. They shall enter into articles of association, which shall specify in general terms the object for which the association is formed, and may contain any other provisions, not inconsistent with law, which the association may see fit to adopt for the regulation of its business and the conduct of its affairs. These articles shall be signed by the persons uniting to form the association, and a copy of them shall be forwarded to the Comptroller of the Currency, to be filed and preserved in his office. [See § 324.]

SEC. 5134. The persons uniting to form such an association shall, under their hands, make an organization certificate, which shall specifically state:

First. The name assumed by such association; which name shall be subject to the approval of the Comptroller of the Currency.

Second. The place where its operations of discount and deposit are to be carried on, designating the State, Territory, or district, and the particular county and city, town, or village.

Third. The amount of capital stock and the number of shares into which the same is to be divided.

Fourth. The names and places of residence of the shareholders and the number of shares held by each of them.

Fifth. The fact that the certificate is made to enable such persons to avail themselves of the advantages of this Title.

SEC. 5135. The organization certificate shall be acknowledged before a judge of some court of record, or notary public; and shall be, together with the acknowledgment thereof, authenticated by the seal of such court, or notary, transmitted to the Comptroller of the Currency, who shall record and carefully preserve the same in his office. [See § 325.]

SEC. 5136. Upon duly making and filing articles of association and an organization certificate, the association shall become, as from the date of the execution of its organization certificate, a body corporate, and as such; and in the name designated in the organization certificate, it shall have power—

First. To adopt and use a corporate seal.

Second. To have succession for the period of twenty years from its organization, unless it is sooner dissolved according to the provisions of its articles of association, or by the act of its shareholders owning two-thirds of its stock, or unless its franchise becomes forfeited by some violation of law.

Third. To make contracts.

Fourth. To sue and be sued, complain and defend, in any court of law and equity, as fully as natural persons.

Fifth. To elect or appoint directors, and by its board of directors to appoint a president, vice-president, cashier, and other officers, define their duties, require bonds of them and fix the penalty thereof, dismiss such officers or any of them at pleasure, and appoint others to fill their places.

Sixth. To prescribe, by its board of directors, by-laws not inconsistent with law, regulating the manner in which its stock shall be transferred, its directors elected or appointed, its officers appointed, its property transferred, its general business conducted, and the privileges granted to it by law exercised and enjoyed.

Seventh. To exercise by its board of directors, or duly authorized officers or agents, subject to law, all such incidental powers as shall be necessary to carry on the business of banking; by discounting and negotiating promissory notes, drafts, bills of exchange, and other evidences of debt; by receiving deposits; by buying and selling exchange, coin, and bullion; by loaning money on personal security; and by obtaining, issuing, and circulating notes according to the provisions of this Title.

But no association shall transact any business except such as is incidental and necessarily preliminary to its organization, until it has been authorized by the Comptroller of the Currency to commence the business of banking.

SEC. 5137. A national banking association may purchase, hold, and convey real estate for the following purposes, and for no others:

First. Such as shall be necessary for its immediate accommodation in the transaction of its business.

Second. Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.

Third. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it shall purchase at sales under judgments, decrees, or mortgages held by the association, or shall purchase to secure debts due to it.

But no such association shall hold the possession of any real estate under mortgage, or the title and possession of any real estate purchased to secure any debts due to it, for a longer period than five years.

SEC. 5138. No association shall be organized under this Title with a less capital than one hundred thousand dollars; except that banks with a capital of not less than fifty thousand dollars may, with the approval of the Secretary of the Treasury, be organized in any place the population of which does not exceed six thousand inhabitants. No association shall be organized in a city the population of which exceeds fifty thousand persons with a less capital than two hundred thousand dollars.

SEC. 5139. The capital stock of each association shall be divided into shares of one hundred dollars each, and be deemed personal property, and transferable on the books of the association in such manner as may be prescribed in the by-laws or articles of association. Every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all the rights and liabilities of the prior holder of

Corporate powers of associations.

Ibid., s. 8.

2 Abb. U. S., 416.

Power to hold real property.

3 June, 1864, c. 106, s. 28, v. 13, p. 107.

Requisite amount of capital.

Ibid., s. 7, p. 101.

Shares of stock and transfers.

Ibid., s. 12, p. 102.

Van Allen vs. The Assessors, 3 Wall., 573.

such shares; and no change shall be made in the articles of association by which the rights, remedies, or security of the existing creditors of the association shall be impaired.

How payment of the capital stock must be made and proved.

Ibid., s. 14, p. 103.

SEC. 5140. At least fifty per centum of the capital stock of every association shall be paid in before it shall be authorized to commence business; and the remainder of the capital stock of such association shall be paid in installments of at least ten per centum each, on the whole amount of the capital, as frequently as one installment at the end of each succeeding month from the time it shall be authorized by the Comptroller of the Currency to commence business; and the payment of each installment shall be certified to the Comptroller, under oath, by the president or cashier of the association.

Proceedings if shareholder fails to pay installments.

Ibid., s. 15.

SEC. 5141. Whenever any shareholder, or his assignee, fails to pay any installment on the stock when the same is required by the preceding section to be paid, the directors of such association may sell the stock of such delinquent shareholder at public auction, having given three weeks' previous notice thereof in a newspaper published and of general circulation in the city or county where the association is located, or if no newspaper is published in said city or county, then in a newspaper published nearest thereto, to any person who will pay the highest price therefor, to be not less than the amount then due thereon, with the expenses of advertisement and sale; and the excess, if any, shall be paid to the delinquent shareholder. If no bidder can be found who will pay for such stock the amount due thereon to the association, and the cost of advertisement and sale, the amount previously paid shall be forfeited to the association, and such stock shall be sold as the directors may order, within six months from the time of such forfeiture, and if not sold it shall be canceled and deducted from the capital stock of the association. If any such cancellation and reduction shall reduce the capital of the association below the minimum of capital required by law, the capital stock shall, within thirty days from the date of such cancellation, be increased to the required amount; in default of which a receiver may be appointed, according to the provisions of section fifty-two hundred and thirty-four, to close up the business of the association.

Increase of capital stock.

Ibid., s. 13.

SEC. 5142. Any association formed under this Title may, by its articles of association, provide for an increase of its capital from time to time, as may be deemed expedient, subject to the limitations of this Title. But the maximum of such increase to be provided in the articles of association shall be determined by the Comptroller of the Currency; and no increase of capital shall be valid until the whole amount of such increase is paid in, and notice thereof has been transmitted to the Comptroller of the Currency, and his certificate obtained specifying the amount of such increase of capital stock, with his approval thereof, and that it has been duly paid in as part of the capital of such association.

Reduction of capital stock.

Ibid.

SEC. 5143. Any association formed under this Title may, by the vote of shareholders owning two-thirds of its capital stock, reduce its capital to any sum not below the amount required by this Title to authorize the formation of associations; but no such reduction shall be allowable which will reduce the capital of the association below the amount required for its outstanding circulation, nor shall any such reduction be made until the amount of the proposed reduction has been reported to the Comptroller of the Currency and his approval thereof obtained.

Right of shareholders to vote.

Ibid., s. 11, p. 102.

SEC. 5144. In all elections of directors, and in deciding all questions at meetings of shareholders, each shareholder shall be entitled to one vote on each share of stock held by him. Shareholders may vote by proxies duly authorized in writing; but no officer, clerk, teller, or book-keeper of such association shall act as proxy; and no shareholder whose liability is past due and unpaid shall be allowed to vote.

SEC. 5145. The affairs of each association shall be managed by not less than five directors, who shall be elected by the shareholders at a meeting to be held at any time before the association is authorized by the Comptroller of the Currency to commence the business of banking; and afterward at meetings to be held on such day in January of each year as is specified therefor in the articles of association. The directors shall hold office for one year, and until their successors are elected and have qualified.

Election of directors.

3 June, 1864, c. 106, ss. 9, 10, v. 13, p. 102.

SEC. 5146. Every director must, during his whole term of service, be a citizen of the United States, and at least three-fourths of the directors must have resided in the State, Territory, or District in which the association is located, for at least one year immediately preceding their election, and must be residents therein during their continuance in office. Every director must own, in his own right, at least ten shares of the capital stock of the association of which he is a director. Any director who ceases to be the owner of ten shares of the stock, or who becomes in any other manner disqualified, shall thereby vacate his place.

Requisite qualifications of directors.

Ibid.

SEC. 5147. Each director, when appointed or elected, shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such association, and will not knowingly violate, or willingly permit to be violated, any of the provisions of this Title, and that he is the owner in good faith, and in his own right, of the number of shares of stock required by this Title, subscribed by him, or standing in his name on the books of the association, and that the same is not hypothecated, or in any way pledged, as security for any loan or debt. Such oath, subscribed by the director making it, and certified by the officer before whom it is taken, shall be immediately transmitted to the Comptroller of the Currency, and shall be filed and preserved in his Office.

Oath required from directors.

Ibid., s. 9.

SEC. 5148. Any vacancy in the board shall be filled by appointment by the remaining directors, and any director so appointed shall hold his place until the next election.

Filling vacancies.

Ibid., s. 10.

SEC. 5149. If, from any cause, an election of directors is not made at the time appointed, the association shall not for that cause be dissolved, but an election may be held on any subsequent day, thirty days' notice thereof in all cases having been given in a newspaper published in the city, town, or county in which the association is located; and if no newspaper is published in such city, town, or county, such notice shall be published in a newspaper published nearest thereto. If the articles of association do not fix the day on which the election shall be held, or if no election is held on the day fixed, the day for the election shall be designated by the board of directors in their by-laws, or otherwise; or if the directors fail to fix the day, shareholders representing two-thirds of the shares may do so.

Proceedings where no election is held on the proper day.

Ibid., s. 9.

SEC. 5150. One of the directors, to be chosen by the board, shall be the president of the board.

Election of president of the board.

Ibid., s. 9.

SEC. 5151. The shareholders of every national banking association shall be held individually responsible, equally and ratably, and not one for another, for all contracts, debts, and engagements of such association, to the extent of the amount of their stock therein, at the par value thereof, in addition to the amount invested in such shares; except that shareholders of any banking association now existing under State laws, having not less than five millions of dollars of capital actually paid in, and a surplus of twenty per centum on hand, both to be determined by the Comptroller of the Currency, shall be liable only to the amount invested in their shares; and such surplus of twenty per centum shall be kept undiminished, and be in addition to the surplus provided for in this Title; and if at any time there is a deficiency in such surplus of twenty per centum, such association shall not pay any dividends to its shareholders until the deficiency is made good; and in case of

Individual liability of shareholders.

Ibid., s. 12.

such deficiency, the Comptroller of the Currency may compel the association to close its business and wind up its affairs under the provisions of Chapter four of this Title.

Executors, trustees, &c., not personally liable.

*Ibid.*, s. 63, p. 118.

SEC. 5152. Persons holding stock as executors, administrators, guardians, or trustees, shall not be personally subject to any liabilities as stockholders; but the estates and funds in their hands shall be liable in like manner and to the same extent as the testator, intestate, ward, or person interested in such trust-funds would be, if living and competent to act and hold the stock in his own name.

Duties and liabilities when designated as depositaries of public moneys.

*Ibid.*, s. 45, p. 113.

SEC. 5153. All national banking associations, designated for that purpose by the Secretary of the Treasury, shall be depositaries of public money, except receipts from customs, under such regulations as may be prescribed by the Secretary; and they may also be employed as financial agents of the Government; and they shall perform all such reasonable duties, as depositaries of public moneys and financial agents of the Government, as may be required of them. The Secretary of the Treasury shall require the associations thus designated to give satisfactory security, by the deposit of United States bonds and otherwise, for the safe-keeping and prompt payment of the public money deposited with them, and for the faithful performance of their duties as financial agents of the Government. And every association so designated as receiver or depositary of the public money shall take and receive at par all of the national currency bills, by whatever association issued, which have been paid into the Government for internal revenue, or for loans or stocks. [See §§ 3639-3649, 5489.]

Organization of State banks as national banking associations.

*Ibid.*, s. 44, p. 112.

SEC. 5154. Any bank incorporated by special law, or any banking institution organized under a general law of any State, may become a national association under this Title by the name prescribed in its organization certificate; and in such case the articles of association and the organization certificate may be executed by a majority of the directors of the bank or banking institution; and the certificate shall declare that the owners of two-thirds of the capital stock have authorized the directors to make such certificate, and to change and convert the bank or banking institution into a national association. A majority of the directors, after executing the articles of association and organization certificate, shall have power to execute all other papers, and to do whatever may be required to make its organization perfect and complete as a national association. The shares of any such bank may continue to be for the same amount each as they were before the conversion, and the directors may continue to be the directors of the association until others are elected or appointed in accordance with the provisions of this chapter; and any State bank which is a stockholder in any other bank, by authority of State laws, may continue to hold its stock, although either bank, or both, may be organized under and have accepted the provisions of this Title. When the Comptroller of the Currency has given to such association a certificate, under his hand and official seal, that the provisions of this Title have been complied with, and that it is authorized to commence the business of banking, the association shall have the same powers and privileges, and shall be subject to the same duties, responsibilities, and rules, in all respects, as are prescribed for other associations originally organized as national banking associations, and shall be held and regarded as such an association. But no such association shall have a less capital than the amount prescribed for associations organized under this Title.

State banks having branches.

3 March, 1865, c. 78, s. 7, v. 13, p. 484.

SEC. 5155. It shall be lawful for any bank or banking association organized under State laws, and having branches, the capital being joint and assigned to and used by the mother-bank and branches in definite proportions, to become a national banking association in conformity with existing laws, and to retain and keep in operation its branches, or such one or more of them as it may elect to retain; the amount of the circulation redeemable at the mother-bank, and each branch, to be regulated by the amount of capital assigned to and used by each.

SEC. 5156. Nothing in this Title shall affect any appointments made, acts done, or proceedings had or commenced prior to the third day of June, eighteen hundred and sixty-four, in or toward the organization of any national banking association under the act of February twenty-five, eighteen hundred and sixty-three; but all associations which, on the third day of June, eighteen hundred and sixty-four, were organized or commenced to be organized under that act, shall enjoy all the rights and privileges granted, and be subject to all the duties, liabilities, and restrictions imposed by this Title, notwithstanding all the steps prescribed by this Title for the organization of associations were not pursued, if such associations were duly organized under that act.

Reservation of rights of associations organized under act of 1863.

3 June 1864, c. 106, s. 62, v. 13, p. 118.

## CHAPTER TWO.

### OBTAINING AND ISSUING CIRCULATING NOTES.

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SEC. 5157. The provisions of chapters two, three, and four of this Title, which are expressed without restrictive words, as applying to "national banking associations," or to "associations," apply to all associations organized to carry on the business of banking under any act of Congress.

What associations are governed by chapters 2, 3, and 4.

SEC. 5158. The term "United States bonds," as used throughout this chapter, shall be construed to mean registered bonds of the United States.

Registered bonds intended by the term "United States bonds."

3 June, 1864, c. 106, s. 4, v. 13, p. 100.

SEC. 5159. Every association, after having complied with the provisions of this Title, preliminary to the commencement of the banking business, and before it shall be authorized to commence banking business under this Title, shall transfer and deliver to the Treasurer of the United States any United States registered bonds, bearing interest, to an amount not less than thirty thousand dollars and not less than one-third of the capital stock paid in. Such bonds shall be received by the

Deposit of bonds required before issue of circulating notes.

Ibid., s. 16, p. 104.

Treasurer upon deposit, and shall be by him safely kept in his office, until they shall be otherwise disposed of, in pursuance of the provisions of this Title.

Increase or reduction of deposit to correspond with capital.

3 June, 1864, c. 106, s. 16, v. 13, p. 104.

SEC. 5160. The deposit of bonds made by each association shall be increased as its capital may be paid up or increased, so that every association shall at all times have on deposit with the Treasurer registered United States bonds to the amount of at least one-third of its capital stock actually paid in. And any association that may desire to reduce its capital or to close up its business and dissolve its organization, may take up its bonds upon returning to the Comptroller its circulating notes in the proportion hereinafter required, or may take up any excess of bonds beyond one-third of its capital stock, and upon which no circulating notes have been delivered.

Exchange of coupon for registered bonds.

3 June, 1864, c. 106, s. 16, v. 13, p. 104.

SEC. 5161. To facilitate a compliance with the two preceding sections, the Secretary of the Treasury is authorized to receive from any association, and cancel, any United States coupon bonds, and to issue in lieu thereof registered bonds of like amount, bearing a like rate of interest, and having the same time to run.

Manner of making transfers of bonds.

Ibid., s. 19, p. 105.

SEC. 5162. All transfers of United States bonds, made by any association under the provisions of this Title, shall be made to the Treasurer of the United States in trust for the association, with a memorandum written or printed on each bond, and signed by the cashier, or some other officer of the association making the deposit. A receipt shall be given to the association, by the Comptroller of the Currency, or by a clerk appointed by him for that purpose, stating that the bond is held in trust for the association on whose behalf the transfer is made, and as security for the redemption and payment of any circulating notes that have been or may be delivered to such association. No assignment or transfer of any such bond by the Treasurer shall be deemed valid unless countersigned by the Comptroller of the Currency.

Registry of transfers.

Ibid., ss. 19, 20.

SEC. 5163. The Comptroller of the Currency shall keep in his Office a book in which he shall cause to be entered, immediately upon countersigning it, every transfer or assignment by the Treasurer, of any bonds belonging to a national banking association, presented for his signature. He shall state in such entry the name of the association from whose accounts the transfer is made, the name of the party to whom it is made, and the par value of the bonds transferred.

Notice of transfer to be given to association interested.

Ibid., s. 19.

SEC. 5164. The Comptroller of the Currency shall, immediately upon countersigning and entering any transfer or assignment by the Treasurer, of any bonds belonging to a national banking association, advise by mail the association from whose accounts the transfer is made, of the kind and numerical designation of the bonds, and the amount thereof so transferred.

Examination of registry and bonds.

Ibid., s. 20.

SEC. 5165. The Comptroller of the Currency shall have at all times, during office-hours, access to the books of the Treasurer of the United States for the purpose of ascertaining the correctness of any transfer or assignment of the bonds deposited by an association, presented to the Comptroller to countersign; and the Treasurer shall have the like access to the book mentioned in section fifty-one hundred and sixty-three, during office-hours, to ascertain the correctness of the entries in the same; and the Comptroller shall also at all times have access to the bonds on deposit with the Treasurer, to ascertain their amount and condition.

Annual examination of bonds by associations.

Ibid., s. 25, p. 106.

SEC. 5166. Every association having bonds deposited in the office of the Treasurer of the United States shall, once or oftener in each fiscal year, examine and compare the bonds pledged by the association with the books of the Comptroller of the Currency and with the accounts of the association, and, if they are found correct, to execute to the Treasurer a certificate setting forth the different kinds and the amounts thereof, and that the same are in the possession and custody of the Treasurer at the date of the certificate. Such examination shall be made at

such time or times, during the ordinary business hours, as the Treasurer and the Comptroller, respectively, may select, and may be made by an officer or agent of such association, duly appointed in writing for that purpose; and his certificate before mentioned shall be of like force and validity as if executed by the president or cashier. A duplicate of such certificate, signed by the Treasurer, shall be retained by the association.

SEC. 5167. The bonds transferred to and deposited with the Treasurer of the United States, by any association, for the security of its circulating notes, shall be held exclusively for that purpose, until such notes are redeemed, except as provided in this Title. The Comptroller of the Currency shall give to any such association powers of attorney to receive and appropriate to its own use the interest on the bonds which it has so transferred to the Treasurer; but such powers shall become inoperative whenever such association fails to redeem its circulating notes. Whenever the market or cash value of any bonds thus deposited with the Treasurer is reduced below the amount of the circulation issued for the same, the Comptroller may demand and receive the amount of such depreciation in other United States bonds at cash value, or in money, from the association, to be deposited with the Treasurer as long as such depreciation continues. And the Comptroller, upon the terms prescribed by the Secretary of the Treasury, may permit an exchange to be made of any of the bonds deposited with the Treasurer by any association, for other bonds of the United States authorized to be received as security for circulating notes, if he is of opinion that such an exchange can be made without prejudice to the United States; and he may direct the return of any bonds to the association which transferred the same, in sums of not less than one thousand dollars, upon the surrender to him and the cancellation of a proportionate amount of such circulating notes: *Provided*, That the remaining bonds which shall have been transferred by the association offering to surrender circulating notes are equal to the amount required for the circulating notes not surrendered by such association, and that the amount of bonds in the hands of the Treasurer is not diminished below the amount required to be kept on deposit with him, and that there has been no failure by the association to redeem its circulating notes, nor any other violation by it of the provisions of this Title, and that the market or cash value of the remaining bonds is not below the amount required for the circulation issued for the same.

SEC. 5168. Whenever a certificate is transmitted to the Comptroller of the Currency, as provided in this Title, and the association transmitting the same notifies the Comptroller that at least fifty per centum of its capital stock has been duly paid in, and that such association has complied with all the provisions of this Title required to be complied with before an association shall be authorized to commence the business of banking, the Comptroller shall examine into the condition of such association, ascertain especially the amount of money paid in on account of its capital, the name and place of residence of each of its directors, and the amount of the capital stock of which each is the owner in good faith, and generally whether such association has complied with all the provisions of this Title required to entitle it to engage in the business of banking; and shall cause to be made and attested by the oaths of a majority of the directors, and by the president or cashier of the association, a statement of all the facts necessary to enable the Comptroller to determine whether the association is lawfully entitled to commence the business of banking.

SEC. 5169. If, upon a careful examination of the facts so reported, and of any other facts which may come to the knowledge of the Comptroller, whether by means of a special commission appointed by him for the purpose of inquiring into the condition of such association, or otherwise, it appears that such association is lawfully entitled to commence the business of banking, the Comptroller shall give to such association

Custody of bonds, collection of interest, &c.

3 June, 1864, c. 106, s. 26, v. 13, p. 107.

Comptroller to determine if associations can commence business.

*Ibid.*, s. 17, p. 104.

Certificate of authority to commence banking to be issued.

3 June, 1864, c. 106, ss. 12, 18, v. 13, pp. 102, 104.

a certificate, under his hand and official seal, that such association has complied with all the provisions required to be complied with before commencing the business of banking, and that such association is authorized to commence such business. But the Comptroller may withhold from an association his certificate authorizing the commencement of business, whenever he has reason to suppose that the shareholders have formed the same for any other than the legitimate objects contemplated by this Title.

Publication of certificate.

3 June, 1864, c. 106, s. 18, v. 13, p. 104.

Delivery of circulating notes.

3 March, 1865, c. 82, v. 13, p. 498.

SEC. 5170. The association shall cause the certificate issued under the preceding section to be published in some newspaper printed in the city or county where the association is located, for at least sixty days next after the issuing thereof; or, if no newspaper is published in such city or county, then in the newspaper published nearest thereto.

SEC. 5171. Upon a deposit of bonds as prescribed by sections fifty-one hundred and fifty-nine and fifty-one hundred and sixty, the association making the same shall be entitled to receive from the Comptroller of the Currency circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to ninety per centum of the current market-value of the United States bonds so transferred and delivered, but not exceeding ninety per centum of the amount of the bonds at the par value thereof, if bearing interest at a rate not less than five per centum per annum: *Provided*, That the amount of circulating notes to be furnished to each association shall be in proportion to its paid-up capital, as follows, and no more:

First. To each association whose capital does not exceed five hundred thousand dollars, ninety per centum of such capital.

Second. To each association whose capital exceeds five hundred thousand dollars, but does not exceed one million of dollars, eighty per centum of such capital.

Third. To each association whose capital exceeds one million of dollars, but does not exceed three million of dollars, seventy-five per centum of such capital.

Fourth. To each association whose capital exceeds three millions of dollars, sixty per centum of such capital.

Printing, denominations, and form of the circulating notes.

3 June, 1864, c. 104, s. 22, v. 13, p. 105.

SEC. 5172. In order to furnish suitable notes for circulation, the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury, cause plates and dies to be engraved, in the best manner to guard against counterfeiting and fraudulent alterations, and shall have printed therefrom, and numbered, such quantity of circulating notes, in blank, of the denominations of one dollar, two dollars, three dollars, five dollars, ten dollars, twenty dollars, fifty dollars, one hundred dollars, five hundred dollars, and one thousand dollars, as may be required to supply the associations entitled to receive the same. Such notes shall express upon their face that they are secured by United States bonds, deposited with the Treasurer of the United States, by the written or engraved signatures of the Treasurer and Register, and by the imprint of the seal of the Treasury; and shall also express upon their face the promise of the association receiving the same to pay on demand, attested by the signatures of the president or vice-president and cashier; and shall bear such devices and such other statements, and shall be in such form, as the Secretary of the Treasury shall, by regulation, direct. [See §§ 5415, 5434.]

Plates and dies to be under control of Comptroller

Ibid., c. 106, s. 41, v. 13, p. 111.

SEC. 5173. The plates and special dies to be procured by the Comptroller of the Currency for the printing of such circulating notes shall remain under his control and direction, and the expenses necessarily incurred in executing the laws respecting the procuring of such notes, and all other expenses of the Bureau of the Currency, shall be paid out of the proceeds of the taxes or duties assessed and collected on the circulation of national banking associations under this Title.

SEC. 5174. The Comptroller of the Currency shall cause to be examined, each year, the plates, dies, but-pieces, and other material from which the national-bank circulation is printed, in whole or in part, and file in his Office annually a correct list of the same. Such material as shall have been used in the printing of the notes of associations which are in liquidation, or have closed business, shall be destroyed under such regulations as shall be prescribed by the Comptroller of the Currency and approved by the Secretary of the Treasury. The expenses of any such examination or destruction shall be paid out of any appropriation made by Congress for the special examination of national banks and bank-note plates.

SEC. 5175. Not more than one-sixth part of the notes furnished to any association shall be of a less denomination than five dollars. After specie payments are resumed no association shall be furnished with notes of a less denomination than five dollars.

SEC. 5176. No banking association organized subsequent to the twelfth day of July, eighteen hundred and seventy, shall have a circulation in excess of five hundred thousand dollars.

SEC. 5177. The aggregate amount of circulating notes issued under the act of February twenty-five, eighteen hundred and sixty-three, and under the act of June three, eighteen hundred and sixty-four, and under section one of the act of July twelve, eighteen hundred and seventy, and under this Title, shall not exceed three hundred and fifty-four millions of dollars.

SEC. 5178. One hundred and fifty millions of dollars of the entire amount of circulating notes authorized to be issued shall be apportioned to associations in the States, in the Territories, and in the District of Columbia, according to representative population. One hundred and fifty millions shall be apportioned by the Secretary of the Treasury among associations formed in the several States, in the Territories, and in the District of Columbia, having due regard to the existing banking capital, resources, and business of such States, Territories, and District. The remaining fifty-four millions shall be apportioned among associations in States and Territories having, under the apportionments above prescribed, less than their full proportion of the aggregate amount of notes authorized, which made due application for circulating notes prior to the twelfth day of July, eighteen hundred and seventy-one. Any remainder of such fifty-four millions shall be issued to banking associations applying for circulating notes in other States or Territories having less than their proportion.

SEC. 5179. In order to secure a more equitable distribution of the national banking currency, there may be issued circulating notes to banking associations organized in States and Territories having less than their proportion, and the amount of circulation herein authorized shall, under the direction of the Secretary of the Treasury, as it may be required for this purpose, be withdrawn, as herein provided, from banking associations organized in States having more than their proportion, but the amount so withdrawn shall not exceed twenty-five million dollars: *Provided*, That no circulation shall be withdrawn under the provisions of this section until after the fifty-four millions granted in the first section of the act of July twelfth, eighteen hundred and seventy, shall have been taken up.

SEC. 5180. The Comptroller of the Currency shall, under the direction of the Secretary of the Treasury, make a statement showing the amount of circulation in each State and Territory, and the amount necessary to be withdrawn from each association, and shall forthwith make a requisition for such amount upon such associations, commencing with those having a circulation exceeding one million of dollars, in States having an excess of circulation, and withdrawing their circula-

Annual examination of plates, dies, &c.

3 March, 1873, c. 269, s. 4, v. 17, p. 603.

Limit to issue of notes under five dollars.

3 June, 1864, c. 106, s. 22, v. 13, p. 105.

Limit to amount of circulation of certain banks.

12 July, 1870, c. 252, s. 1, v. 16, p. 251.

Limit to aggregate amount of circulating notes.

3 June, 1864, c. 106, s. 22, v. 13, p. 105.

Ibid., s. 62, p. 118.

12 July, 1870, c. 252, s. 1, v. 16, p. 251.

Apportionment of aggregate amount of circulating notes.

3 March, 1865, c. 82, v. 13, p. 498.

12 July, 1870, c. 252, s. 1, v. 16, p. 251.

Equalizing the apportionment of circulating notes.

12 July, 1870, c. 252, s. 6, v. 16, p. 253.

How the necessary amount of notes shall be withdrawn.

Ibid.

tion in excess of one million of dollars, and then proceeding proportionately with other associations having a circulation exceeding three hundred thousand dollars, in States having the largest excess of circulation, and reducing the circulation of such associations in States having the greatest proportion in excess, leaving undisturbed the associations in States having a smaller proportion, until those in greater excess have been reduced to the same grade, and continuing thus to make such reductions until the full amount of twenty-five millions has been withdrawn; and the circulation so withdrawn shall be distributed among the States and Territories having less than their proportion, so as to equalize the same. Upon failure of any association to return the amount of circulating notes so required, within one year, the Comptroller shall sell at public auction, having given twenty days' notice thereof in one daily newspaper printed in Washington and one in New York City, an amount of the bonds deposited by that association as security for its circulation, equal to the circulation required to be withdrawn from the association and not returned in compliance with such requisition; and he shall, with the proceeds, redeem so many of the notes of such association, as they come into the Treasury, as will equal the amount required and not returned; and shall pay the balance, if any, to the association.

Removal of association to another State.

*Ibid.*, s. 7, p. 254.

For what demands national-bank notes may be received.

3 June, 1864, c. 106, s. 23, v. 13, p. 106.

Issue of other notes prohibited.

*Ibid.*

Merchants' Bank vs. State Bank, 10 Wall., 604.

Destroying and replacing worn-out and mutilated notes.

*Ibid.*

SEC. 5181. Any association located in any State having more than its proportion of circulation may be removed to any State having less than its proportion of circulation, under such rules and regulations as the Comptroller of the Currency, with the approval of the Secretary of the Treasury, shall prescribe: *Provided*, That the amount of the issue of said banks shall not be deducted from the issue of fifty-four millions mentioned in section five thousand one hundred and seventy-eight.

SEC. 5182. After any association receiving circulating notes under this Title has caused its promise to pay such notes on demand to be signed by the president or vice-president and cashier thereof, in such manner as to make them obligatory promissory notes, payable on demand, at its place of business, such association may issue and circulate the same as money. And the same shall be received at par in all parts of the United States in payment of taxes, excises, public lands, and all other dues to the United States, except duties on imports; and also for all salaries and other debts and demands owing by the United States to individuals, corporations, and associations within the United States, except interest on the public debt, and in redemption of the national currency.

SEC. 5183. No national banking association shall issue any other notes to circulate as money than such as are authorized by the provisions of this Title.

SEC. 5184. It shall be the duty of the Comptroller of the Currency to receive worn-out or mutilated circulating notes issued by any banking association, and also, on due proof of the destruction of any such circulating notes, to deliver in place thereof to the association other blank circulating notes to an equal amount. Such worn-out or mutilated notes, after a memorandum has been entered in the proper books, in accordance with such regulations as may be established by the Comptroller, as well as all circulating notes which shall have been paid or surrendered to be canceled, shall be burned to ashes in presence of four persons, one to be appointed by the Secretary of the Treasury, one by the Comptroller of the Currency, one by the Treasurer of the United States, and one by the association, under such regulations as the Secretary of the Treasury may prescribe. A certificate of such burning, signed by the parties so appointed, shall be made in the books of the Comptroller, and a duplicate thereof forwarded to the association whose notes are thus canceled.

SEC. 5185. Associations may be organized in the manner prescribed by this Title for the purpose of issuing notes payable in gold; and upon the deposit of any United States bonds bearing interest payable in gold with the Treasurer of the United States, in the manner prescribed for other associations, it shall be lawful for the Comptroller of the Currency to issue to the association making the deposit circulating notes of different denominations, but none of them of less than five dollars, and not exceeding in amount eighty per centum of the par value of the bonds deposited, which shall express the promise of the association to pay them, upon presentation at the office at which they are issued, in gold coin of the United States, and shall be so redeemable. But no such association shall have a circulation of more than one million of dollars.

SEC. 5186. Every association organized under the preceding section shall at all times keep on hand not less than twenty-five per centum of its outstanding circulation, in gold or silver coin of the United States; and shall receive at par in the payment of debts the gold-notes of every other such association which at the time of such payment is redeeming its circulating notes in gold coin of the United States, and shall be subject to all the provisions of this Title: *Provided*, That, in applying the same to associations organized for issuing gold notes, the terms "lawful money" and "lawful money of the United States" shall be construed to mean gold or silver coin of the United States; and the circulation of such associations shall not be within the limitation of circulation mentioned in this Title.

SEC. 5187. No officer acting under the provisions of this Title shall countersign or deliver to any association, or to any other company or person, any circulating notes contemplated by this Title, except in accordance with the true intent and meaning of its provisions. Every officer who violates this section shall be deemed guilty of a high misdemeanor, and shall be fined not more than double the amount so countersigned and delivered, and imprisoned not less than one year and not more than fifteen years.

SEC. 5188. It shall not be lawful to design, engrave, print, or in any manner make or execute, or to utter, issue, distribute, circulate, or use, any business or professional card, notice, placard, circular, hand-bill, or advertisement, in the likeness or similitude of any circulating note or other obligation or security of any banking association organized or acting under the laws of the United States which has been or may be issued under this Title, or any act of Congress, or to write, print, or otherwise impress upon any such note, obligation, or security any business or professional card, notice or advertisement, or any notice or advertisement of any matter or thing whatever. Every person who violates this section shall be liable to a penalty of one hundred dollars, recoverable one-half to the use of the informer.

SEC. 5189. Every person who mutilates, cuts, defaces, disfigures, or perforates with holes, or unites or cements together, or does any other thing to any bank-bill, draft, note, or other evidence of debt, issued by any national banking association, or who causes or procures the same to be done, with intent to render such bank-bill, draft, note, or other evidence of debt unfit to be re-issued by said association, shall be liable to a penalty of fifty dollars, recoverable by the association.

Organization of associations to issue gold-notes authorized.

12 July, 1870, c. 282, s. 3, v. 16, p. 252.

Their lawful-money reserve, and duty of receiving notes of other associations.

12 July, 1870, c. 282, ss. 3, 4, 5, v. 16, pp. 252, 253.

Penalty for issuing circulating notes to unauthorized associations.

3 June, 1864, c. 106, s. 27, v. 13, p. 107.

Penalty for imitating national-bank notes, &c.

5 Feb., 1867, c. 26, s. 2, v. 14, p. 383.

Penalty for defacing, &c., national-bank notes.

3 June, 1864, c. 106, s. 58, v. 13, p. 117.

## CHAPTER THREE.

## REGULATION OF THE BANKING BUSINESS.

<p>Sec. 5190. Place of business of banking associations. 5191. "Lawful-money reserve" prescribed. 5192. What may be counted toward the "lawful-money reserve." 5193. Certain certificates of deposit may be counted. 5194. Limitation on the power to issue such certificates. 5195. Place for redemption of circulating notes to be designated. 5196. National banks to receive notes of other national banks. 5197. Limitation upon rate of interest which may be taken. 5198. Consequences of taking usurious interest. 5199. Dividends. 5200. Limit to liabilities which may be incurred by any one person, &amp;c. 5201. Associations not to loan or purchase their own stock. 5202. Limit upon indebtedness to be incurred.</p>	<p>Sec. 5203. Restriction upon use of circulating notes. 5204. Prohibition upon withdrawal of capital. 5205. Enforcing payment of deficiency in capital stock. 5206. Restriction upon use of notes of other banks. 5207. United States notes not to be held as collateral, &amp;c.; penalty. 5208. Penalty for falsely certifying checks. 5209. Embezzlement; penalty. 5210. List of shareholders, &amp;c., to be kept. 5211. Reports to Comptroller of the Currency. 5212. Report as to dividends. 5213. Penalty for failure to make reports. 5214. Duties payable to the United States. 5215. Half-yearly return of circulation, deposit, and capital stock. 5216. Penalty for failure to make return. 5217. Penalty for failure to pay duties. 5218. Refunding excessive duties. 5219. State taxation.</p>
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Place of business.  
3 June, 1864, c. 106, s. 8, v. 13, p. 101.

SEC. 5190. The usual business of each national banking association shall be transacted at an office or banking-house located in the place specified in its organization certificate.

Merchants' Bank vs. State Bank, 10 Wall., 604.  
"Lawful-money reserve" prescribed.

3 June, 1864, c. 106, s. 31, v. 13, p. 108.  
1 March, 1872, c. 22, v. 17, p. 32.

SEC. 5191. Every national banking association in either of the following cities: Albany, Baltimore, Boston, Cincinnati, Chicago, Cleveland, Detroit, Louisville, Milwaukee, New Orleans, New York, Philadelphia, Pittsburgh, Saint Louis, San Francisco, and Washington, shall at all times have on hand, in lawful money of the United States, an amount equal to at least twenty-five per centum of the aggregate amount of its notes in circulation and its deposits; and every other association shall at all times have on hand, in lawful money of the United States, an amount equal to at least fifteen per centum of the aggregate amount of its notes in circulation, and of its deposits. Whenever the lawful money of any association in any of the cities named shall be below the amount of twenty-five per centum of its circulation and deposits, and whenever the lawful money of any other association shall be below fifteen per centum of its circulation and deposits, such association shall not increase its liabilities by making any new loans or discounts otherwise than by discounting or purchasing bills of exchange payable at sight, nor make any dividend of its profits until the required proportion, between the aggregate amount of its outstanding notes of circulation and deposits and its lawful money of the United States, has been restored. And the Comptroller of the Currency may notify any association, whose lawful-money reserve shall be below the amount above required to be kept on hand, to make good such reserve; and if such association shall fail for thirty days thereafter so to make good its reserve of lawful money, the Comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of the association, as provided in section fifty-two hundred and thirty-four.

What may be counted toward the "lawful-money reserve."

3 June, 1864, c. 106, s. 31, v. 13, p. 108.

SEC. 5192. Three-fifths of the reserve of fifteen per centum required by the preceding section to be kept, may consist of balances due to an association, available for the redemption of its circulating notes, from associations approved by the Comptroller of the Currency, organized under the act of June three, eighteen hundred and sixty-four, or under this Title, and doing business in the cities of Albany, Baltimore, Boston,

Charleston, Chicago, Cincinnati, Cleveland, Detroit, Louisville, Milwaukee, New Orleans, New York, Philadelphia, Pittsburgh, Richmond, Saint Louis, San Francisco, and Washington. Clearing-house certificates, representing specie or lawful money specially deposited for the purpose, of any clearing-house association, shall also be deemed to be lawful money in the possession of any association belonging to such clearing-house, holding and owning such certificate, within the preceding section.

SEC. 5193. The Secretary of the Treasury may receive United States notes on deposit, without interest, from any national banking associations, in sums of not less than ten thousand dollars, and issue certificates therefor in such form as he may prescribe, in denominations of not less than five thousand dollars, and payable on demand in United States notes at the place where the deposits were made. The notes so deposited shall not be counted as part of the lawful-money reserve of the association; but the certificates issued therefor may be counted as part of its lawful-money reserve, and may be accepted in the settlement of clearing-house balances at the places where the deposits therefor were made.

SEC. 5194. The power conferred on the Secretary of the Treasury, by the preceding section, shall not be exercised so as to create any expansion or contraction of the currency. And United States notes for which certificates are issued under that section, or other United States notes of like amount, shall be held as special deposits in the Treasury, and used only for the redemption of such certificates.

SEC. 5195. Each association organized in any of the cities named in section fifty-one hundred and ninety-one shall select, subject to the approval of the Comptroller of the Currency, an association in the city of New York, at which it will redeem its circulating notes at par; and may keep one-half of its lawful-money reserve in cash deposits in the city of New York. But the foregoing provision shall not apply to associations organized and located in the city of San Francisco for the purpose of issuing notes payable in gold. Each association not organized within the cities named, shall select, subject to the approval of the Comptroller, an association in either of the cities named, at which it will redeem its circulating notes at par. The Comptroller shall give public notice of the names of the associations selected, at which redemptions are to be made by the respective associations, and of any change that may be made of the association at which the notes of any association are redeemed. Whenever any association fails either to make the selection or to redeem its notes as aforesaid, the Comptroller of the Currency may, upon receiving satisfactory evidence thereof, appoint a receiver, in the manner provided for in section fifty-two hundred and thirty-four, to wind up its affairs. But this section shall not relieve any association from its liability to redeem its circulating notes at its own counter, at par, in lawful money on demand.

SEC. 5196. Every national banking association formed or existing under this Title, shall take and receive at par, for any debt or liability to it, any and all notes or bills issued by any lawfully organized national banking association. But this provision shall not apply to any association organized for the purpose of issuing notes payable in gold.

SEC. 5197. Any association may take, receive, reserve, and charge on any loan or discount made, or upon any note, bill of exchange, or other evidences of debt, interest at the rate allowed by the laws of the State, Territory, or district where the bank is located, and no more, except that where by the laws of any State a different rate is limited for banks of issue organized under State laws, the rate so limited shall be allowed for associations organized or existing in any such State under this Title. When no rate is fixed by the laws of the State, or Territory, or district, the bank may take, receive, reserve, or charge a rate not exceeding seven per centum, and such interest may be taken in advance, reckoning the days for which the note, bill, or other evidence of debt

Certain certificates of deposit may be counted.

8 June, 1872, c. 346, ss. 1, 2, v. 17, p. 336.

Limitation on the power to issue such certificates.

Ibid., s. 3.

Place for redemption of circulating notes to be designated.

3 June, 1864, c. 106, s. 32, v. 13, p. 109.

National banks to receive notes of other national banks.

Ibid.

12 July, 1870, c. 282, s. 5, v. 16, p. 253.

Limitation upon rate of interest which may be taken.

3 June, 1864, c. 106, s. 30, v. 13, p. 108.

Tiffany vs. National Bank of Missouri, 18 Wall., 409.

has to run. And the purchase, discount, or sale of a bona-fide bill of exchange, payable at another place than the place of such purchase, discount, or sale, at not more than the current rate of exchange for sight-drafts in addition to the interest, shall not be considered as taking or receiving a greater rate of interest.

Consequences of taking usurious interest.

3 June, 1864, c. 106, s. 30, v. 13, p. 108.

SEC. 5198. The taking, receiving, reserving, or charging a rate of interest greater than is allowed by the preceding section, when knowingly done, shall be deemed a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid thereon. In case the greater rate of interest has been paid, the person by whom it has been paid, or his legal representatives, may recover back, in an action in the nature of an action of debt, twice the amount of the interest thus paid from the association taking or receiving the same; provided such action is commenced within two years from the time the usurious transaction occurred.

Dividends.

Ibid., s. 33, p. 109.

SEC. 5199. The directors of any association may, semi-annually, declare a dividend of so much of the net profits of the association as they shall judge expedient; but each association shall, before the declaration of a dividend, carry one-tenth part of its net profits of the preceding half-year to its surplus fund until the same shall amount to twenty per centum of its capital stock.

Limit to liabilities which may be incurred by any one person, &c.

Ibid., s. 29, p. 108.

SEC. 5200. The total liabilities to any association, of any person, or of any company, corporation, or firm for money borrowed, including, in the liabilities of a company or firm, the liabilities of the several members thereof, shall at no time exceed one-tenth part of the amount of the capital stock of such association actually paid in. But the discount of bills of exchange drawn in good faith against actually existing values, and the discount of commercial or business paper actually owned by the person negotiating the same, shall not be considered as money borrowed.

Associations not to loan or purchase their own stock.

Ibid., s. 35, p. 110.

Bank vs. Lanier, 11 Wall., 369; Ballard vs. Bank, 18 Wall., 589.

SEC. 5201. No association shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be necessary to prevent loss upon a debt previously contracted in good faith; and stock so purchased or acquired shall, within six months from the time of its purchase, be sold or disposed of at public or private sale; or, in default thereof, a receiver may be appointed to close up the business of the association, according to section fifty-two hundred and thirty-four.

Limit upon indebtedness to be incurred.

3 June, 1864, c. 106, s. 36, v. 13, p. 110.

SEC. 5202. No association shall at any time be indebted, or in any way liable, to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise, except on account of demands of the nature following:

First. Notes of circulation.

Second. Moneys deposited with or collected by the association.

Third. Bills of exchange or drafts drawn against money actually on deposit to the credit of the association, or due thereto.

Fourth. Liabilities to the stockholders of the association for dividends and reserved profits.

Restriction upon use of circulating notes.

Ibid., s. 37.

SEC. 5203. No association shall, either directly or indirectly, pledge or hypothecate any of its notes or circulation, for the purpose of procuring money to be paid in on its capital stock, or to be used in its banking operations, or otherwise; nor shall any association use its circulating notes, or any part thereof, in any manner or form, to create or increase its capital stock.

Prohibition upon withdrawal of capital.

Ibid., s. 38.

SEC. 5204. No association, or any member thereof, shall, during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in the form of dividends or otherwise, any portion of its capital. If losses have at any time been sustained by any such association, equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any association, while it continues its banking operations, to an amount

greater than its net profits then on hand, deducting therefrom its losses and bad debts. All debts due to any associations, on which interest is past due and unpaid for a period of six months, unless the same are well secured, and in process of collection, shall be considered bad debts within the meaning of this section. But nothing in this section shall prevent the reduction of the capital stock of the association under section fifty-one hundred and forty-three.

SEC. 5205. Every association which shall have failed to pay up its capital stock, as required by law, and every association whose capital stock shall have become impaired by losses or otherwise, shall, within three months after receiving notice thereof from the Comptroller of the Currency, pay the deficiency in the capital stock, by assessment upon the shareholders pro rata for the amount of capital stock held by each; and the Treasurer of the United States shall withhold the interest upon all bonds held by him in trust for any such association, upon notification from the Comptroller of the Currency, until otherwise notified by him. If any such association shall fail to pay up its capital stock, and shall refuse to go into liquidation, as provided by law, for three months after receiving notice from the Comptroller, a receiver may be appointed to close up the business of the association, according to the provisions of section fifty-two hundred and thirty-four.

SEC. 5206. No association shall at any time pay out on loans or discounts, or in purchasing drafts or bills of exchange, or in payment of deposits, or in any other mode pay or put in circulation, the notes of any bank or banking association which are not, at any such time, receivable, at par, on deposit, and in payment of debts by the association so paying out or circulating such notes; nor shall any association knowingly pay out or put in circulation any notes issued by any bank or banking association which at the time of such paying out or putting in circulation is not redeeming its circulating notes in lawful money of the United States.

SEC. 5207. No association shall hereafter offer or receive United States notes or national-bank notes as security or as collateral security for any loan of money, or for a consideration agree to withhold the same from use, or offer or receive the custody or promise of custody of such notes as security, or as collateral security, or consideration for any loan of money. Any association offending against the provisions of this section shall be deemed guilty of a misdemeanor, and shall be fined not more than one thousand dollars and a further sum equal to one-third of the money so loaned. The officer or officers of any association who shall make any such loan shall be liable for a further sum equal to one-quarter of the money loaned; and any fine or penalty incurred by a violation of this section shall be recoverable for the benefit of the party bringing such suit.

SEC. 5208. It shall be unlawful for any officer, clerk, or agent of any national banking association to certify any check drawn upon the association unless the person or company drawing the check has on deposit with the association, at the time such check is certified, an amount of money equal to the amount specified in such check. Any check so certified by duly authorized officers shall be a good and valid obligation against the association; but the act of any officer, clerk, or agent of any association, in violation of this section, shall subject such bank to the liabilities and proceedings on the part of the Comptroller as provided for in section fifty-two hundred and thirty-four.

SEC. 5209. Every president, director, cashier, teller, clerk, or agent of any association, who embezzles, abstracts, or willfully misapplies any of the moneys, funds, or credits of the association; or who, without authority from the directors, issues or puts in circulation any of the notes of the association; or who, without such authority, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment, or decree; or who makes any false entry in any book, re-

Enforcing payment of deficiency in capital stock.

3 March, 1873, c. 269, s. 1, v. 17, p. 603.

Restriction upon use of notes of other banks.

3 June, 1864, c. 106, s. 39, v. 13, p. 111.

United States notes not to be held as collateral, &c.; penalty.

19 Feb., 1869, c. 32, v. 15, p. 270.

Penalty for falsely certifying checks.

3 March, 1869, c. 135, v. 15, p. 335.

Embezzlement; penalty.

3 June, 1864, c. 106, s. 55, v. 13, p. 116.

6 April, 1869, c. 11, v. 16, p. 7.

8 July, 1870, c. 226, v. 16, p. 195.

port, or statement of the association, with intent, in either case, to injure or defraud the association or any other company, body politic or corporate, or any individual person, or to deceive any officer of the association, or any agent appointed to examine the affairs of any such association; and every person who with like intent aids or abets any officer, clerk, or agent in any violation of this section, shall be deemed guilty of a misdemeanor, and shall be imprisoned not less than five years nor more than ten.

List of shareholders, &c., to be kept.

3 June, 1864, c. 106, s. 40, v. 13, p. 111.

SEC. 5210. The president and cashier of every national banking association shall cause to be kept at all times a full and correct list of the names and residences of all the shareholders in the association, and the number of shares held by each, in the office where its business is transacted. Such list shall be subject to the inspection of all the shareholders and creditors of the association, and the officers authorized to assess taxes under State authority, during business-hours of each day in which business may be legally transacted. A copy of such list, on the first Monday of July of each year, verified by the oath of such president or cashier, shall be transmitted to the Comptroller of the Currency.

Reports to Comptroller of the Currency.

Ibid., s. 34, p. 109.  
3 March, 1869, c. 130, s. 1, v. 15, p. 326.

SEC. 5211. Every association shall make to the Comptroller of the Currency not less than five reports during each year, according to the form which may be prescribed by him, verified by the oath or affirmation of the president or cashier of such association, and attested by the signature of at least three of the directors. Each such report shall exhibit, in detail and under appropriate heads, the resources and liabilities of the associations at the close of business on any past day by him specified; and shall be transmitted to the Comptroller within five days after the receipt of a request or requisition therefor from him, and in the same form in which it is made to the Comptroller shall be published in a newspaper published in the place where such association is established, or if there is no newspaper in the place, then in the one published nearest thereto in the same county, at the expense of the association; and such proof of publication shall be furnished as may be required by the Comptroller. The Comptroller shall also have power to call for special reports from any particular association whenever in his judgment the same are necessary in order to a full and complete knowledge of its condition.

Report as to dividends.

3 March, 1869, c. 130, s. 2, v. 15, p. 327.

SEC. 5212. In addition to the reports required by the preceding section, each association shall report to the Comptroller of the Currency, within ten days after declaring any dividend, the amount of such dividend, and the amount of net earnings in excess of such dividend. Such reports shall be attested by the oath of the president or cashier of the association.

Penalty for failure to make reports.

Ibid., ss. 1, 2, p. 326.

SEC. 5213. Every association which fails to make and transmit any report required under either of the two preceding sections shall be subject to a penalty of one hundred dollars for each day after the periods, respectively, therein mentioned, that it delays to make and transmit its report. Whenever any association delays or refuses to pay the penalty herein imposed, after it has been assessed by the Comptroller of the Currency, the amount thereof may be retained by the Treasurer of the United States, upon the order of the Comptroller of the Currency, out of the interest, as it may become due to the association, on the bonds deposited with him to secure circulation. All sums of money collected for penalties under this section shall be paid into the Treasury of the United States.

Duties payable to the United States.

3 June, 1864, c. 106, s. 41, v. 13, p. 111.

SEC. 5214. In lieu of all existing taxes, every association shall pay to the Treasurer of the United States, in the months of January and July, a duty of one-half of one per centum each half-year upon the average amount of its notes in circulation, and a duty of one-quarter of one per centum each half-year upon the average amount of its deposits, and a duty of one-quarter of one per centum each half-

year on the average amount of its capital stock, beyond the amount invested in United States bonds.

SEC. 5215. In order to enable the Treasurer to assess the duties imposed by the preceding section, each association shall, within ten days from the first days of January and July of each year, make a return, under the oath of its president or cashier, to the Treasurer of the United States, in such form as the Treasurer may prescribe, of the average amount of its notes in circulation, and of the average amount of its deposits, and of the average amount of its capital stock, beyond the amount invested in United States bonds, for the six months next preceding the most recent first day of January or July. Every association which fails so to make such return shall be liable to a penalty of two hundred dollars, to be collected either out of the interest as it may become due such association on the bonds deposited with the Treasurer, or, at his option, in the manner in which penalties are to be collected of other corporations under the laws of the United States.

SEC. 5216. Whenever any association fails to make the half-yearly return required by the preceding section, the duties to be paid by such association shall be assessed upon the amount of notes delivered to such association by the Comptroller of the Currency, and upon the highest amount of its deposits and capital stock, to be ascertained in such manner as the Treasurer may deem best.

SEC. 5217. Whenever an association fails to pay the duties imposed by the three preceding sections, the sums due may be collected in the manner provided for the collection of United States taxes from other corporations; or the Treasurer may reserve the amount out of the interest, as it may become due, on the bonds deposited with him by such defaulting association.

SEC. 5218. In all cases where an association has paid or may pay in excess of what may be or has been found due from it, on account of the duty required to be paid to the Treasurer of the United States, the association may state an account therefor, which, on being certified by the Treasurer of the United States, and found correct by the First Comptroller of the Treasury, shall be refunded in the ordinary manner by warrant on the Treasury.

SEC. 5219. Nothing herein shall prevent all the shares in any association from being included in the valuation of the personal property of the owner or holder of such shares, in assessing taxes imposed by authority of the State within which the association is located; but the legislature of each State may determine and direct the manner and place of taxing all the shares of national banking associations located within the State, subject only to the two restrictions, that the taxation shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such State, and that the shares of any national banking association owned by non-residents of any State shall be taxed in the city or town where the bank is located, and not elsewhere. Nothing herein shall be construed to exempt the real property of associations from either State, county, or municipal taxes, to the same extent, according to its value, as other real property is taxed.

*vs. The Commonwealth*, 9 Wall., 353; *Lionberger vs. Rouse*, 9 Wall., 468.

Half-yearly return of circulation, deposits, and capital stock.

*Ibid.*

Penalty for failure to make return.

*Ibid.*

Penalty for failure to pay duties.

*Ibid.*

Refunding excessive duties.

2 March, 1867, Res. 49, v. 14, p. 572.

State taxation.

3 June, 1864, c. 106, s. 41, v. 13, p. 111.

10 Feb., 1868, c. 7, v. 15, p. 34.

*Bank of Commerce vs. New York City*, 2 Bl., 620; *Van Allen vs. The Assessors*, 3 Wall., 573; *People vs. The Commissioners*, 4 Wall., 244; *Bradley vs. The People*, 4 Wall., 459; *National Bank vs. Rouse*, 9 Wall., 468.

## CHAPTER FOUR.

## DISSOLUTION AND RECEIVERSHIP.

Sec.	Sec.
5220. Voluntary dissolution of associations.	5230. Sale of bonds at auction.
5221. Notice of intent to dissolve.	5231. Sale of bonds at private sale.
5222. Deposit of lawful money to redeem outstanding circulation.	5232. Disposal of protested notes.
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5224. Re-assignment of bonds; redemption of notes, &c.	5234. Appointment of receivers.
5225. Destruction of redeemed notes.	5235. Notice to present claims.
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5227. Examination by special agent.	5237. Injunction upon receivership.
5228. Continuing business after default.	5238. Fees and expenses.
5229. Notice to holders; redemption at Treasury; cancellation of bonds.	5239. Penalty for violation of this Title.
	5240. Appointment of occasional examiners.
	5241. Limit of visitatorial powers.
	5242. Transfers, when void.
	5243. Use of the title "national."

Voluntary dissolution of associations.

SEC. 5220. Any association may go into liquidation and be closed by the vote of its shareholders owning two-thirds of its stock.

3 June, 1864, c. 106, s. 42, v. 13, p. 112.

Notice of intent to dissolve.

SEC. 5221. Whenever a vote is taken to go into liquidation it shall be the duty of the board of directors to cause notice of this fact to be certified, under the seal of the association, by its president or cashier, to the Comptroller of the Currency, and publication thereof to be made for a period of two months in a newspaper published in the city of New York, and also in a newspaper published in the city or town in which the association is located, or if no newspaper is there published, then in the newspaper published nearest thereto, that the association is closing up its affairs, and notifying the holders of its notes and other creditors to present the notes and other claims against the association for payment.

Ibid.

Deposit of lawful money to redeem outstanding circulation.

SEC. 5222. Within six months from the date of the vote to go into liquidation, the association shall deposit with the Treasurer of the United States, lawful money of the United States sufficient to redeem all its outstanding circulation. The Treasurer shall execute duplicate receipts for money thus deposited, and deliver one to the association and the other to the Comptroller of the Currency, stating the amount received by him, and the purpose for which it has been received; and the money shall be paid into the Treasury of the United States, and placed to the credit of such association upon redemption account.

Ibid., ss. 42, 43.

14 July, 1870, c. 257, v. 16, p. 274.

Exemption as to an association consolidating with another.

SEC. 5223. An association which is in good faith winding up its business for the purpose of consolidating with another association shall not be required to deposit lawful money for its outstanding circulation; but its assets and liabilities shall be reported by the association with which it is in process of consolidation.

14 July, 1870, c. 257, v. 16, p. 274.

Re-assignment of bonds and redemption of notes, &c.

SEC. 5224. Whenever a sufficient deposit of lawful money to redeem the outstanding circulation of an association proposing to close its business has been made, the bonds deposited by the association to secure payment of its notes shall be re-assigned to it, in the manner prescribed by section fifty-one hundred and sixty-two. And thereafter the association and its shareholders shall stand discharged from all liabilities upon the circulating notes, and those notes shall be redeemed at the Treasury of the United States.

3 June, 1864, c. 106, s. 42, v. 13, p. 112.

Destruction of redeemed notes.

SEC. 5225. Whenever the Treasurer has redeemed any of the notes of an association which has commenced to close its affairs under the six preceding sections, he shall cause the notes to be mutilated and charged to the redemption account of the association; and all notes so redeemed by the Treasurer shall, every three months, be certified to and burned in the manner prescribed in section fifty-one hundred and eighty-four.

Ibid., s. 43.

SEC. 5226. Whenever any national banking association fails to redeem in the lawful money of the United States any of its circulating notes, upon demand of payment duly made during the usual hours of business, at the office of such association, or at its designated place of redemption, the holder may cause the same to be protested, in one package, by a notary public, unless the president or cashier of the association whose notes are presented for payment, or the president or cashier of the association at the place at which they are redeemable offers to waive demand and notice of the protest; and, in pursuance of such offer, makes, signs, and delivers to the party making such demand an admission in writing, stating the time of the demand, the amount demanded, and the fact of the non-payment thereof. The notary public, on making such protest, or upon receiving such admission, shall forthwith forward such admission or notice of protest to the Comptroller of the Currency, retaining a copy thereof. If, however, satisfactory proof is produced to the notary public that the payment of the notes demanded is restrained by order of any court of competent jurisdiction, he shall not protest the same. When the holder of any notes causes more than one note or package to be protested on the same day, he shall not receive pay for more than one protest.

Mode of protesting notes.

Ibid., s. 46, p. 113.

SEC. 5227. On receiving notice that any national banking association has failed to redeem any of its circulating notes, as specified in the preceding section, the Comptroller of the Currency, with the concurrence of the Secretary of the Treasury, may appoint a special agent, of whose appointment immediate notice shall be given to such association, who shall immediately proceed to ascertain whether it has refused to pay its circulating notes in the lawful money of the United States, when demanded, and shall report to the Comptroller the fact so ascertained. If, from such protest, and the report so made, the Comptroller is satisfied that such association has refused to pay its circulating notes and is in default, he shall, within thirty days after he has received notice of such failure, declare the bonds deposited by such association forfeited to the United States, and they shall thereupon be so forfeited.

Examination by special agent.

Ibid., s. 47, p. 114.

SEC. 5228. After a default on the part of an association to pay any of its circulating notes has been ascertained by the Comptroller, and notice of forfeiture of the bonds has been given by him to the association, it shall not be lawful for the association suffering the same to pay out any of its notes, discount any notes or bills, or otherwise prosecute the business of banking, except to receive and safely keep money belonging to it, and to deliver special deposits.

Continuing business after default.

Ibid., s. 46, p. 113.

SEC. 5229. Immediately upon declaring the bonds of an association forfeited for non-payment of its notes, the Comptroller shall give notice, in such manner as the Secretary of the Treasury shall, by general rules or otherwise, direct, to the holders of the circulating notes of such association, to present them for payment at the Treasury of the United States; and the same shall be paid as presented in lawful money of the United States; whereupon the Comptroller may, in his discretion, cancel an amount of bonds pledged by such association equal at current market rates, not exceeding par, to the notes paid.

Notice to holders; redemption at Treasury; cancellation of bonds.

Ibid., s. 47, p. 114.

SEC. 5230. Whenever the Comptroller has become satisfied, by the protest or the waiver and admission specified in section fifty-two hundred and twenty-six, or by the report provided for in section fifty-two hundred and twenty-seven, that any association has refused to pay its circulating notes, he may, instead of canceling its bonds, cause so much of them as may be necessary to redeem its outstanding notes to be sold at public auction in the city of New York, after giving thirty days' notice of such sale to the association. For any deficiency in the proceeds of all the bonds of an association, when thus sold, to re-imburse to the United States the amount expended in paying the circulating notes of the association, the United States shall have a paramount lien upon all its assets; and such deficiency shall be made good out of such assets in preference to any and all other claims whatsoever, except the necessary costs and expenses of administering the same.

Sale of bonds at auction.

3 June, 1864, c. 106, ss. 47, 48, v. 13, p. 114.

Sale of bonds at private sale.

*Ibid.*, s. 49.

SEC. 5231. The Comptroller may, if he deems it for the interest of the United States, sell at private sale any of the bonds of an association shown to have made default in paying its notes, and receive therefor either money or the circulating notes of the association. But no such bonds shall be sold by private sale for less than par, nor for less than the market-value thereof at the time of sale; and no sales of any such bonds, either public or private, shall be complete until the transfer of the bonds shall have been made with the formalities prescribed by sections fifty-one hundred and sixty-two, fifty-one hundred and sixty-three, and fifty-one hundred and sixty-four.

Disposal of protested notes.

*Ibid.*, s. 47.

SEC. 5232. The Secretary of the Treasury may, from time to time, make such regulations respecting the disposition to be made of circulating notes after presentation at the Treasury of the United States for payment, and respecting the perpetuation of the evidence of the payment thereof, as may seem to him proper.

Cancellation of national-bank notes.

*Ibid.*

SEC. 5233. All notes of national banking associations presented at the Treasury of the United States for payment shall, on being paid, be canceled.

Appointment of receivers.

*Ibid.*, s. 50.

*Kennedy vs. Gibson*, 8 Wall., 498; *Bank of Bethel vs. Pahquioque Bank*, 14 Wall., 383; *Bank vs. Kennedy*, 16 Wall., 19; *In re Platt, Receiver, &c.*, 1 Ben., 534.

SEC. 5234. On becoming satisfied, as specified in sections fifty-two hundred and twenty-six and fifty-two hundred and twenty-seven, that any association has refused to pay its circulating notes as therein mentioned, and is in default, the Comptroller of the Currency may forthwith appoint a receiver, and require of him such bond and security as he deems proper. Such receiver, under the direction of the Comptroller, shall take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to it, and, upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and, on a like order, may sell all the real and personal property of such association, on such terms as the court shall direct; and may, if necessary to pay the debts of such association, enforce the individual liability of the stockholders. Such receiver, shall pay over all money so made to the Treasurer of the United States, subject to the order of the Comptroller, and also make report to the Comptroller of all his acts and proceedings.

Notice to present claims.

3 June, 1864, c. 106, s. 50, v. 13, p. 114.

SEC. 5235. The Comptroller shall, upon appointing a receiver, cause notice to be given, by advertisement in such newspapers as he may direct, for three consecutive months, calling on all persons who may have claims against such association to present the same, and to make legal proof thereof.

Dividends.

*Ibid.*

*Bank of Bethel vs. Pahquioque Bank*, 14 Wall., 383.

SEC. 5236. From time to time, after full provision has been first made for refunding to the United States any deficiency in redeeming the notes of such association, the Comptroller shall make a ratable dividend of the money so paid over to him by such receiver on all such claims as may have been proved to his satisfaction or adjudicated in a court of competent jurisdiction, and, as the proceeds of the assets of such association are paid over to him, shall make further dividends on all claims previously proved or adjudicated; and the remainder of the proceeds, if any, shall be paid over to the shareholders of such association, or their legal representatives, in proportion to the stock by them respectively held.

Injunction upon receivership.

3 June, 1864, c. 106, s. 50, v. 13, p. 114.

SEC. 5237. Whenever an association against which proceedings have been instituted, on account of any alleged refusal to redeem its circulating notes as aforesaid, denies having failed to do so, it may, at any time within ten days after it has been notified of the appointment of an agent, as provided in section fifty-two hundred and twenty-seven, apply to the nearest circuit, or district, or territorial court of the United States to enjoin further proceedings in the premises; and such court, after citing the Comptroller of the Currency to show cause why further proceedings should not be enjoined, and after the decision of the court or finding of a jury that such association has not refused to redeem its circulating notes, when legally presented, in the lawful money of the United States, shall make an order enjoining the Comptroller, and any receiver acting

under his direction, from all further proceedings on account of such alleged refusal.

SEC. 5238. All fees for protesting the notes issued by any national banking association shall be paid by the person procuring the protest to be made, and such association shall be liable therefor; but no part of the bonds deposited by such association shall be applied to the payment of such fees. All expenses of any preliminary or other examinations into the condition of any association shall be paid by such association. All expenses of any receivership shall be paid out of the assets of such association before distribution of the proceeds thereof.

SEC. 5239. If the directors of any national banking association shall knowingly violate, or knowingly permit any of the officers, agents, or servants of the association to violate any of the provisions of this Title, all the rights, privileges, and franchises of the association shall be thereby forfeited. Such violation shall, however, be determined and adjudged by a proper circuit, district, or territorial court of the United States, in a suit brought for that purpose by the Comptroller of the Currency, in his own name, before the association shall be declared dissolved. And in cases of such violation, every director who participated in or assented to the same shall be held liable in his personal and individual capacity for all damages which the association, its shareholders, or any other person, shall have sustained in consequence of such violation.

SEC. 5240. The Comptroller of the Currency, with the approval of the Secretary of the Treasury, shall, as often as shall be deemed necessary or proper, appoint a suitable person or persons to make an examination of the affairs of every banking association, who shall have power to make a thorough examination into all the affairs of the association, and, in doing so, to examine any of the officers and agents thereof on oath; and shall make a full and detailed report of the condition of the association to the Comptroller. Every person appointed to make such examination shall receive for his services at the rate of five dollars for each day by him employed in such examination, and two dollars for every twenty-five miles he shall necessarily travel in the performance of his duty, which shall be paid by the association by him examined. But no person shall be appointed to examine the affairs of any banking association of which he is a director or other officer.

SEC. 5241. No association shall be subject to any visitorial powers other than such as are authorized by this Title, or are vested in the courts of justice.

SEC. 5242. All transfers of the notes, bonds, bills of exchange, or other evidences of debt owing to any national banking association, or of deposits to its credit; all assignments of mortgages, sureties on real estate, or of judgments or decrees in its favor; all deposits of money, bullion, or other valuable thing for its use, or for the use of any of its shareholders or creditors; and all payments of money to either, made after the commission of an act of insolvency, or in contemplation thereof, made with a view to prevent the application of its assets in the manner prescribed by this chapter, or with a view to the preference of one creditor to another, except in payment of its circulating notes, shall be utterly null and void; and no attachment, injunction or execution, shall be issued against such association or its property before final judgment in any suit, action, or proceeding, in any State, county, or municipal court.

SEC. 5243. All banks not organized and transacting business under the national-currency laws, or under this Title, and all persons or corporations doing the business of bankers, brokers, or savings institutions, except savings-banks authorized by Congress to use the word "national" as a part of their corporate name, are prohibited from using the word "national" as a portion of the name or title of such bank, corporation, firm, or partnership; and any violation of this prohibition committed after the third day of September, eighteen hundred and seventy-three, shall subject the party chargeable therewith to a penalty of fifty dollars for each day during which it is committed or repeated.

Fees and expenses.

Ibid., s. 51, p. 115.

Penalty for violation of this Title.

Ibid., s. 53, p. 116.

Appointment of occasional examiners.

Ibid., s. 54.

Limit of visitorial powers.

Ibid.

Transfers, when void.

Ibid., s. 52, p. 115.

Use of the title "national."

3 March, 1873, c. 269, s. 3, v. 17, p. 603.