

## Annual Report, Secretary of Treasury (Salmon P. Chase)

[Thirty-Seventh Congress, 2d Session, December 9, 1861, Pages 11-14]

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To enable the government to obtain the necessary means for prosecuting the war to a successful issue, without unnecessary cost, is a problem which must engage the most careful attention of the legislature.

The Secretary has given to this problem the best consideration in his power, and now begs leave to submit to Congress the result of his reflections.

The circulation of the banks of the United States, on the 1st day of January, 1861, was computed to be \$202,000,767. Of this circulation \$150,000,000, in round numbers, was in States now loyal, including West Virginia, and \$50,000,000 in the rebellious States. The whole of this circulation constitutes a loan without interest from the people to the banks, costing them nothing except the expense of issue and redemption and the interest on the specie kept on hand for the latter purpose; and it deserves consideration whether sound policy does not require that the advantages of this loan be transferred, in part at least, from the banks, representing only the interests of the stockholders, to the government, representing the aggregate interests of the whole people.

It has been well questioned by the most eminent statesmen whether a currency of bank notes, issued by local institutions under State laws, is not, in fact, prohibited by the national Constitution. Such emissions certainly fall within the spirit, if not within the letter, of the constitutional prohibition of the emission of bills of credit by the States, and of the making by them of anything except gold and silver coin a legal tender in payment of debts.

However this may be, it is too clear to be reasonably disputed that Congress, under its constitutional powers to lay taxes, to regulate commerce, and to regulate the value of coin, possesses ample authority to control the credit circulation which enters so largely into the transactions of commerce and affects in so many ways the value of coin.

In the judgment of the Secretary the time has arrived when Congress should exercise this authority. The value of the existing bank note circulation depends on the laws of thirty-four States and the character of some sixteen hundred private corporations. It is usually furnished in greatest proportions by institutions of least actual capital. Circulation, commonly, is in the inverse ratio of solvency. Well-founded institutions, of large and solid capital, have, in general, comparatively little circulation; while weak corporations almost invariably seek to sustain themselves by obtaining from the people the largest possible credit in this form. Under such a system, or rather lack of system, great fluctuations, and heavy losses in discounts and ex-

changes, are inevitable; and not unfrequently, through failures of the issuing institutions, considerable portions of the circulation become suddenly worthless in the hands of the people. The recent experience of several States in the valley of the Mississippi painfully illustrates the justice of these observations; and enforces by the most cogent practical arguments the duty of protecting commerce and industry against the recurrence of such disorders.

The Secretary thinks it possible to combine with this protection a provision for circulation, safe to the community and convenient for the Government.

Two plans for effecting this object are suggested. The first contemplates the gradual withdrawal from circulation of the notes of private corporations and for the issue, in their stead, of United States notes, payable in coin on demand, in amounts sufficient for the useful ends of a representative currency. The second contemplates the preparation and delivery, to institutions and associations, of notes prepared for circulation under national direction, and to be secured as to prompt convertibility into coin by the pledge of United States bonds and other needful regulations.

The first of these plans was partially adopted at the last session of Congress in the provision authorizing the Secretary to issue United States notes, payable in coin, to an amount not exceeding fifty millions of dollars. That provision may be so extended as to reach the average circulation of the country, while a moderate tax, gradually augmented, on bank notes, will relieve the national from the competition of local circulation. It has been already suggested that the substitution of a national for a state currency, upon this plan, would be equivalent to a loan to the government without interest, except on the fund to be kept in coin, and without expense, except the cost of preparation, issue, and redemption; while the people would gain the additional advantage of a uniform currency, and relief from a considerable burden in the form of interest on debt. These advantages are, doubtless, considerable; and if a scheme can be devised by which such a circulation will be certainly and strictly confined to the real needs of the people, and kept constantly equivalent to specie by prompt and certain redemption in coin, it will hardly fail of legislative sanction.

The plan, however, is not without serious inconveniences and hazards. The temptation, especially great in times of pressure and danger, to issue notes without adequate provision for redemption; the ever-present liability to be called on for redemption beyond means, however carefully provided and managed; the hazard of panics, precipitating demands for coin, concentrated on a few points and a single fund; the risk of a depreciated, depreciating, and finally worthless paper money; the immeasurable evils of dishonored public faith and national bankruptcy; all these are possible consequences of the adoption of a system of government circulation. It may be said, and perhaps truly, that they are less deplorable than those of an irredeemable bank circulation. Without entering into that comparison, the Secretary contents himself with observing that, in his judgment, these possible disasters so far outweigh the probable benefits of the plan that he feels himself constrained to forbear recommending its adoption.

The second plan suggested remains for examination. Its principal features are, (1st) a circulation of notes bearing a common impression and authenticated by a common authority; (2d) the redemption of these notes by the associations and institutions to which they may be delivered for issue; and (3d) the security of that redemption by the pledge of United States stocks, and an adequate provision of specie.

In this plan the people, in their ordinary business, would find the advantages of uniformity in currency; of uniformity in security; of effectual safeguard, if effectual safeguard is possible, against depreciation; and of protection from losses in discounts and exchanges; while in the operations of the government the people would find the further advantage of a large demand for government securities, of increased facilities for obtaining the loans required by the war, and of some alleviation of the burdens on industry through a diminution in the rate of interest, or a participation in the profit of circulation, without risking the perils of a great money monopoly.

A further and important advantage to the people may be reasonably expected in the increased security of the Union, springing from the common interest in its preservation, created by the distribution of its stocks to associations throughout the country, as the basis of their circulation.

The Secretary entertains the opinion that if a credit circulation in any form be desirable, it is most desirable in this. The notes thus issued and secured would, in his judgment, form the safest currency which this country has ever enjoyed; while their receivability for all government dues, except customs, would make them, wherever payable, of equal value, as a currency, in every part of the Union. The large amount of specie now in the United States, reaching a total of not less than two hundred and seventy-five millions of dollars, will easily support payments of duties in coin, while these payments and ordinary demands will aid in retaining this specie in the country as a solid basis both of circulation and loans.

The whole circulation of the country, except a limited amount of foreign coin, would, after the lapse of two or three years, bear the impress of the nation whether in coin or notes; while the amount of the latter, always easily ascertainable, and, of course, always generally known, would not be likely to be increased beyond the real wants of business.

He expresses an opinion in favor of this plan with the greater confidence, because it has the advantage of recommendation from experience. It is not an untried theory. In the State of New York and in one or more of the other States it has been subjected, in its most essential parts, to the test of experiment, and has been found practicable and useful. The probabilities of success will not be diminished but increased by its adoption under national sanction and for the whole country.

It only remains to add that the plan is recommended by one other consideration, which, in the judgment of the Secretary, is entitled to much influence. It avoids almost, if not altogether, the evils of a great and sudden change in the currency by offering inducements to solvent existing institutions to withdraw the circulation issued under State authority, and substitute that provided by the authority of the Union.

Thus, through the voluntary action of the existing institutions, aided by wise legislation, the great transition from a currency heterogeneous, unequal, and unsafe, to one uniform, equal, and safe, may be speedily and almost imperceptibly accomplished.

If the Secretary has omitted the discussion of the question of the constitutional power of Congress to put this plan into operation, it is because no argument is necessary to establish the proposition that the power to regulate commerce and the value of coin includes the power to regulate the currency of the country, or the collateral proposition that the power to effect the end includes the power to adopt the necessary and expedient means.

The Secretary entertains the hope that the plan now submitted, if adopted with the limitations and safeguards which the experience and wisdom of Senators and Representatives will, doubtless, suggest, may impart such value and stability to government securities that it will not be difficult to obtain the additional loans required for the service of the current and the succeeding year at fair and reasonable rates; especially if the public credit be supported by sufficient and certain provision for the payment of interest and ultimate redemption of the principal.

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### Annual Report, Secretary of Treasury (Salmon P. Chase)

[Thirty-Seventh Congress, 3d Session, December 4, 1862, Pages 12-26]

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The Secretary does not concur in the opinion entertained by some, whose ability and experience command deserved respect, that the aggregate currency of the country, composed of United States notes and notes of corporations, is at this moment greatly in excess of legitimate demands for its employment. Much less does he concur in another opinion, not unfrequently expressed, but expressed in his judgment without due consideration, that any actual excess is due to the issues of United States notes already in circulation.

It is true that gold commands a premium in notes; in other words, that to purchase a given amount of gold a greater amount in notes is required. But it is also true that, on the suspension of specie payments and the substitution for coin of United States notes, convertible into six per cent specie bonds as the legal standard of value, gold became an article of merchandise, subject to the ordinary fluctuations of supply and demand, and to the extraordinary fluctuations of mere speculation. The ignorant fears of foreign investors in national and State bonds and other American securities, and the timid alarms of numerous nervous individuals in our own country, prompted large sacrifices upon evidences of public and corporate indebtedness in our markets, and large purchases of coin for remittance abroad or hoarding at home. Taking advantage of these and other circumstances tending to an advance of gold, speculators employed all the arts of the market to stimulate that tendency and carry it to the highest point. This point was reached on the 15th day of October. Gold sold in the market at a premium of  $37\frac{5}{8}$  per cent.

That this remarkable rise is not due wholly, or even in greatest part, to the increase of the currency, is established beyond reasonable doubt by considerations now to be stated.

First: The whole quantity of circulation did not, at the time, greatly, if at all, exceed the legitimate demands of payments. On the 1st day of November, 1861, the circulation of United States notes, including credits to disbursing officers and to the Treasurer of the United States, was \$15,140,000. On the 1st day of November, 1862, it was, with like inclusions, \$210,104,000. Of corporate notes, on the 1st of November, 1861, the circulation in the loyal States was, according to the best estimates, \$130,000,000; on the 1st of November, 1862, it was \$167,000,000. The coin in circulation, including the coin in banks, was probably not less, on the 1st of November, 1861, than \$210,000,000. On the 1st of November, 1862, the coin had been practically demonetized and withdrawn from use as currency or as a basis for currency, and is therefore not estimated. The aggregate circulation of the loyal States, therefore, was, at the first date, \$355,140,000; and at the second, only \$377,104,000.

Secondly: The whole, or nearly the whole, increase in the volume of the currency which has taken place was, it is believed, legitimately demanded by the changed condition of the country in the year between the two dates. The activity in business which, at the close of that year, had taken the place of the general stagnation which marked its beginning, and the military and naval preparations and movements which had vastly augmented the number and amounts of payments to be made in money, have, it is believed, legitimately demanded nearly or quite the whole of it.

That such is the case may be reasonably inferred from the fact that the prices of many of the most important articles of consumption have declined or not materially advanced during the year. Wheat, quoted at \$1 38 to \$1 45 per bushel on the 1st of November, 1861, was quoted at \$1 45 to \$1 50 on the 1st of November, 1862. Prime mess pork, on the 1st of November, 1861, was quoted at \$15 to \$15 50 per barrel, and on the 1st of November, 1862, at \$12.50 to \$13. Corn sold on the 1st of November, 1861, at 62 to 63 cents per bushel, and on the 1st of November, 1862, at 71 to 73 cents. A comparison between the prices of hay, beef, and some other staples of domestic produce at the two dates, exhibits similar conditions of actual depression in price or moderate rise.

Thirdly: It is, perhaps, still more conclusive against the theory of great redundancy that, on the 15th day of October, when the aggregate actual circulation, national and corporate, was about \$360,000,000, the premium on gold was 37½%; whereas, on the 29th day of November, when the circulation had increased by more than twenty millions, the premium on gold was 29 to 30 per cent.

But if the fact of considerable redundancy in circulation be conceded, it by no means follows that it is the circulation of United States notes which is redundant.

It must be remembered that the law confines national payments and receipts to coin and notes of the United States. Officers of the treasury, officers of the army and navy, all officers of all departments, must observe and enforce this law. For all payments to be made in behalf

of the United States, in case of inability to obtain coin, United States notes *must* be issued. It is, indeed, the duty of the legislature to see that the purchasing power of these notes is kept as nearly as possible equal to the purchasing power which gold would have had if specie payments had been maintained; but the issue and use of the notes is unavoidable, and the government can resort to borrowing only when the issue has become sufficiently large to warrant a just expectation that loans of the notes can be had from those who hold or can obtain them at rates not less advantageous than those of coin loans before suspension. The difficulty which the takers of the recent loan of \$13,613,450 found in obtaining United States notes with which to meet their engagements to the treasury is very instructive on this head. It points, indeed, directly to the conclusion that loans of United States notes, in sufficient amounts to meet the disbursements of the government, could not now be obtained at rates which a due regard to the interests of the tax-payers would permit the Secretary to accept. Whatever may be said of the aggregate circulation, it cannot, then, be successfully maintained that the circulation of United States notes is excessive. When extended to the limits authorized by existing laws, it will be no larger than the wants of the people and the government imperatively demand.

If there be a considerable redundancy then; if there be a considerable real depreciation of the circulation—which is by no means admitted—what has caused the redundancy and the depreciation?

The cause of all that exists is easily found in the statements of the banking corporations. The circulation of corporate notes increased during the year ending on the 1st of November, 1862, from \$130,000,000 to \$167,000,000. During the same time the volume of deposits, which answer very many of the purposes of circulation, had swelled from \$264,000,000 to \$344,000,000. The greater portion of this increase took place within the last seven months.

The augmentation of deposits always accompanies increase of circulation. Together they stimulate loans, and are, in turn, stimulated by the desire of the interest derived from loans. As might have been anticipated, loans increased, though not equally, with the circulation and deposits. From \$607,000,000 on the 1st day of November, 1861, they had grown to \$677,000,000 on the 1st day of November, 1862.

Here is an obvious and sufficient explanation of whatever undue expansion may have taken place. The Secretary has already expressed the opinion that the circulation is not greatly redundant, and that no considerable depreciation of currency has actually occurred. He thinks it sufficiently proved, however, that whatever there may of either is fairly attributable not to the increase of United States notes, but to the increase of bank circulation and deposits.

It is to be observed that no law compelled and no public necessity required any enlargement of the volume of currency by the banks. On the contrary, there are, in some of the States, positive enactments by which the increase of circulation during suspension is prohibited; and the principle embodied in them is so obviously just that well-managed institutions, when obliged to suspend, almost invariably, without the constraint of any law, reduce their circulation instead of augmenting it. In obedience to this principle, a reduction of bank circulation actually took place after the suspension in December. It

was only when United States notes, having been made a legal tender, were diverted from their legitimate use as currency and made the basis of bank circulation, that the great increase of the latter began. It was purely voluntary; prompted doubtless, by the desire of extending accommodations to business as well as by the expectation of profit. No practical limit upon this increase has as yet been proposed by the parties interested in it.

The Secretary has already shown that the case was far otherwise with the circulation of United States notes. A condition had been created by the suspension which made loans of coin impossible. Loans of corporate notes, objectionable in themselves, were positively prohibited by a law not likely to be repealed. The extension of the United States note circulation, until sufficient in amount to enable the Secretary to obtain it from holders by way of loans, was equally inevitable. A practical limit on its increase is imposed by the judicious legislation of Congress, which makes the notes receivable for loans, and requires that the interest on bonds for loans shall be paid in coin.

Under these circumstances, the path of wisdom and duty seems very clear. It leads to the support of a United States note circulation, and to the reduction of the bank note circulation. A comparatively small reduction of the latter will allow ample room for the whole increase of the former, authorized by existing laws; and as the reduction proceeds the increase may be extended, never, however, passing the point which admits the negotiation of loans at reasonable rates. The Secretary has heretofore advised the imposing of a moderate tax on corporate circulation, and now renews the recommendation as the best means of reduction and gradual substitution. Such a tax involves no hardships. Notes circulating as money cost nothing beyond the expense of production and supervision, and yet form a highly accumulative species of property. The necessities of the war have caused the taxation of almost all forms of value. Can there be a sound reason for exempting that which costs the proprietor least and brings him most?

It may be properly added that this desirable substitution of a circulation, uniform in description and value, for a circulation varying widely in both, may, perhaps, be more easily and beneficially effected now than at any other time. The circulation of United States notes may greatly facilitate the payments to the banks through which their own notes must be withdrawn; and thus, not only protect the community from the inconveniences, but the banks from the losses which might otherwise attend reduction.

It may also be added that when the substitution shall have been accomplished, and, perhaps, if circumstances favor, at an earlier period, payments in specie of United States notes may be resumed with less cost and less injury to business than would attend a like resumption in payment of corporate notes. With comparatively trivial sacrifice, the government can, whenever its expenditures are reduced to its revenue, provide, by loan or otherwise, all the coin needed to commence and maintain the resumption.

While the Secretary thus repeats the preference he has heretofore expressed for a United States note circulation, even when issued directly by the government, and dependent on the action of the government for regulation and final redemption, over the note circulation of

the numerous and variously organized and variously responsible banks now existing in the country; and while he now sets forth more fully than heretofore, the grounds of that preference, he still adheres to the opinion expressed in his last report, that a circulation furnished by the government, but issued by banking associations organized under a general act of Congress, is to be preferred to either. Such a circulation, uniform in general characteristics, and amply secured as to prompt convertibility by national bonds deposited in the treasury, by the associations receiving it, would unite, in his judgment, more elements of soundness and utility than can be combined in any other.

A circulation composed exclusively of notes issued directly by the government, or of such notes and coin, is recommended mainly by two considerations;—the first, derived from the facility with which it may be provided in emergencies, and the second, from its cheapness.

The principal objections to such a circulation as a permanent system are, 1st, the facility of excessive expansion when expenditures exceed revenue; 2d, the danger of lavish and corrupt expenditures stimulated by facility of expansion; 3d, the danger of fraud in management and supervision; 4th, the impossibility of providing it in sufficient amounts for the wants of the people whenever expenditures are reduced to equality with revenue or below it.

These objections are all serious. The last requires some elucidation. It will be easily understood, however, if it be considered that a government issuing a credit circulation cannot supply, in any given period, an amount of currency greater than the excess of its disbursements over its receipts. To that amount, it may create a debt in small notes, and these notes may be used as currency. This is precisely the way in which the existing currency of United States notes is supplied. That portion of the expenditure not met by revenue or loans has been met by the issue of these notes. Debt in this form has been substituted for various debts in other forms. Whenever, therefore, the country shall be restored to a healthy normal condition, and receipts exceed expenditures, the supply of United States notes will be arrested, and must progressively diminish. Whatever demand may be made for their redemption in coin must hasten this diminution; and there can be no reissue; for reissue, under the conditions, necessarily implies disbursements, and the revenue, upon the supposition, supplies more than is needed for that purpose. There is, then, no mode in which a currency in United States notes can be permanently maintained, except by loans of them, when not required for disbursement, on deposits of coin, or pledge of securities, or in some other way. This would convert the treasury into a government bank, with all its hazards and mischiefs.

If these reasonings be sound, little room can remain for doubt that the evils certain to arise from such a scheme of currency, if adopted as a permanent system, greatly overbalance the temporary though not inconsiderable advantages offered by it.

It remains to be considered what results may be reasonably expected from an act authorizing the organization of banking associations, such as the Secretary proposed in his last report.

The central idea of the proposed measure is the establishment of one sound, uniform circulation, of equal value throughout the country, upon the foundation of national credit combined with private capital.

Such a currency, it is believed, can be secured through banking associations organized under national legislation.

It is proposed that these associations be entirely voluntary. Any persons, desirous of employing real capital in sufficient amounts, can, if the plan be adopted, unite together under proper articles, and, having contributed the requisite capital, can invest such part of it, not less than a fixed minimum, in United States bonds, and, having deposited these bonds with the proper officer of the United States, can receive United States notes in such denominations as may be desired, and employ them as money in discounts and exchanges. The stockholders of any existing banks can, in like manner, organize under the act, and transfer, by such degrees as may be found convenient, the capital of the old to the use of the new associations. The notes thus put into circulation will be payable, until resumption, in United States notes, and, after resumption, in specie, by the association which issues them, on demand; and if not so paid will be redeemable at the treasury of the United States from the proceeds of the bonds pledged in security. In the practical working of the plan, if sanctioned by Congress, redemption at one or more of the great commercial centres, will probably be provided for by all the associations which circulate the notes, and, in case any association shall fail in such redemption, the treasurer of the United States will probably, under discretionary authority, pay the notes, and cancel the public debt held as security.

It seems difficult to conceive of a note circulation which will combine higher local and general credit than this. After a few years no other circulation would be used, nor could the issues of the national circulation be easily increased beyond the legitimate demands of business. Every dollar of circulation would represent real capital, actually invested in national stocks, and the total amount issued could always be easily and quickly ascertained from the books of the treasury. These circumstances, if they might not wholly remove the temptation to excessive issues, would certainly reduce it to the lowest point, while the form of the notes, the uniformity of devices, the signatures of national officers, and the imprint of the national seal authenticating the declaration borne on each that it is secured by bonds which represent the faith and capital of the whole country, could not fail to make every note as good in any part of the world as the best known and best esteemed national securities.

The Secretary has already mentioned the support to public credit which may be expected from the proposed associations. The importance of this point may excuse some additional observations.

The organization proposed, if sanctioned by Congress, would require within a very few years, for deposit as security for circulation, bonds of the United States to an amount not less than \$250,000,000. It may well be expected, indeed, since the circulation, by uniformity in credit and value, and capacity of quick and cheap transportation, will be likely to be used more extensively than any hitherto issued, that the demand for bonds will overpass this limit. Should Congress see fit to restrict the privilege of deposit to the bonds known as five-twenties, authorized by the act of last session, the demand would promptly absorb all of that description already issued and make large room for more. A steady market for the bonds would thus be established and the negotiation of them greatly facilitated.

But it is not in immediate results that the value of this support would be only or chiefly seen. There are always holders who desire to sell securities of whatever kind. If buyers are few or uncertain, the market value must decline. But the plan proposed would create a constant demand, equaling and often exceeding the supply. Thus a steady uniformity in price would be maintained, and generally at a rate somewhat above those of bonds of equal credit but not available to banking associations. It is not easy to appreciate the full benefits of such conditions to a government obliged to borrow.

Another advantage to be derived from such associations would be found in the convenient agencies which they would furnish for the deposit of public moneys.

The Secretary does not propose to interfere with the independent treasury. It may be advantageously retained, with the assistant treasurers already established in the most important cities, where the customs may be collected as now, in coin or treasury notes issued directly by the government, but not furnished to banking associations.

But whatever the advantages of such arrangements in the commercial cities in relation to customs, it seems clear that the secured national circulation furnished to the banking associations should be received everywhere for all other dues than customs, and that these associations will constitute the best and safest depositaries of the revenues derived from such receipts. The convenience and utility to the government of their employment in this capacity, and often, also, as agents for payments and as distributors of stamps, need no demonstration. The necessity for some other depositaries than surveyors of ports, receivers, postmasters, and other officers, of whose responsibility and fitness, in many cases, nothing satisfactory can be known, is acknowledged by the provision for selection by the Secretary contained in the internal revenue act; and it seems very clear that the public interest will be secured far more certainly by the organization and employment of associations organized as proposed than by any official selection.

Another and very important advantage of the proposed plan has already been adverted to. It will reconcile, as far as practicable, the interests of existing institutions with those of the whole people.

All changes, however important, should be introduced with caution, and proceeded in with careful regard to every affected interest. Rash innovation is not less dangerous than stupefied inaction. The time has come when a circulation of United States notes, in some form, must be employed. The people demand uniformity in currency, and claim, at least, part of the benefit of debt without interest, made into money, hitherto enjoyed exclusively by the banks. These demands are just and must be respected. But there need be no sudden change; there need be no hurtful interference with existing interests. As yet the United States note circulation hardly fills the vacuum caused by the temporary withdrawal of coin; it does not, perhaps, fully meet the demand for increased circulation created by the increased number, variety, and activity of payments in money. There is opportunity, therefore, for the wise and beneficial regulation of its substitution for other circulation. The mode of substitution, also, may be judiciously adapted to actual circumstances. The plan suggested consults both purposes. It contemplates gradual withdrawal of bank

note circulation, and proposes a United States note circulation, furnished to banking associations, in the advantages of which they may participate in full proportion to the care and responsibility assumed and the services performed by them. The promptitude and zeal with which many of the existing institutions came to the financial support of the government in the dark days which followed the outbreak of the rebellion is not forgotten. They ventured largely, and boldly, and patriotically on the side of the Union and the constitutional supremacy of the nation over States and citizens. It does not at all detract from the merit of the act that the losses, which they feared but unhesitatingly risked, were transmuted into unexpected gains. It is a solid recommendation of the suggested plan that it offers the opportunity to these and kindred institutions to reorganize, continue their business under the proposed act, and with little loss and much advantage, participate in maintaining the new and uniform national currency.

The proposed plan is recommended, finally, by the firm anchorage it will supply to the union of the States. Every banking association whose bonds are deposited in the treasury of the Union; every individual who holds a dollar of the circulation secured by such deposit; every merchant, every manufacturer, every farmer, every mechanic, interested in transactions dependent for success on the credit of that circulation, will feel as an injury every attempt to rend the national unity, with the permanence and stability of which all their interests are so closely and vitally connected. Had the system been possible, and had it actually existed two years ago, can it be doubted that the national interests and sentiments enlisted by it for the Union would have so strengthened the motives for adhesion derived from other sources that the wild treason of secession would have been impossible?

The Secretary does not yield to the phantasy that taxation is a blessing and debt a benefit; but it is the duty of public men to extract good from evil whenever it is possible. The burdens of taxation may be lightened and even made productive of incidental benefits by wise, and aggravated and made intolerable by unwise, legislation. In like manner debt, by no means desirable in itself, may, when circumstances compel nations to incur its obligations, be made by discreet use less burdensome, and even instrumental in the promotion of public and private security and welfare.

The rebellion has brought a great debt upon us. It is proposed to use a part of it in such a way that the sense of its burden may be lost in the experience of incidental advantages. The issue of United States notes is such a use; but if exclusive, is hazardous and temporary. The security by national bonds of similar notes furnished to banking associations is such a use, and is comparatively safe and permanent; and with this use may be connected, for the present, and occasionally, as circumstances may require, hereafter, the use of the ordinary United States notes in limited amounts.

No very early day will probably witness the reduction of the public debt to the amount required as a basis for secured circulation. Should no future wars arrest reduction and again demand expenditures beyond revenue, that day will however at length come. When it shall arrive the debt may be retained on low interest at that amount, or some

other security for circulation may be devised, or, possibly, the vast supplies of our rich mines may render all circulation unadvisable except gold and the absolute representatives and equivalents, dollar for dollar, of gold in the treasury or on safe deposit elsewhere. But these considerations may be for another generation.

The Secretary forbears extended argument on the constitutionality of the suggested system. It is proposed as an auxiliary to the power to borrow money; as an agency of the power to collect and disburse taxes; and as an exercise of the power to regulate commerce, and of the power to regulate the value of coin. Of the two first sources of power nothing need be said. The argument relating to them was long since exhausted and is well known. Of the other two there is not room nor does it seem needful to say much. If Congress can prescribe the structure, equipment, and management of vessels to navigate rivers flowing between or through different States as a regulation of commerce, Congress may assuredly determine what currency shall be employed in the interchange of their commodities, which is the very essence of commerce. Statesmen who have agreed in little else have concurred in the opinion that the power to regulate coin is, in substance and effect, a power to regulate currency, and that the framers of the Constitution so intended. It may well enough be admitted that while Congress confines its regulation to weight, fineness, shape, and device, banks and individuals may issue notes for currency in competition with coin. But it is difficult to conceive by what process of logic the unquestioned power to regulate coin can be separated from the power to maintain or restore its circulation, by excluding from currency all private or corporate substitutes which affect its value, whenever Congress shall see fit to exercise that power for that purpose.

The recommendations, now submitted, of the limited issue of United States notes as a wise expedient for the present time, and as an occasional expedient in future times, and of the organization of banking associations to supply circulation secured by national bonds and convertible always into United States notes, and after resumption of specie payments, into coin, are prompted by no favor to excessive issues of any description of credit money.

On the contrary, it is the Secretary's firm belief that by no other path can the resumption of specie payments be so surely reached and so certainly maintained. United States notes receivable for bonds bearing a secure specie interest are next best to notes convertible into coin. The circulation of banking associations organized under a general act of Congress, secured by such bonds, can be most surely and safely maintained at the point of certain convertibility into coin. If, temporarily, these associations redeem their issues with United States notes, resumption of specie payments will not thereby be delayed or endangered, but hastened and secured; for, just as soon as victory shall restore peace, the ample revenue, already secured by wise legislation, will enable the government, through advantageous purchases of specie, to replace at once large amounts, and, at no distant day, the whole, of this circulation by coin, without detriment to any interest, but, on the contrary, with great and manifest benefit to all interests.

The Secretary recommends, therefore, no mere paper money scheme, but, on the contrary, a series of measures looking to a safe and gradual return to gold and silver as the only permanent basis, standard, and measure of values recognized by the Constitution—between which and an irredeemable paper currency, as he believes, the choice is now to be made.

No country possesses the true elements of a higher credit—no country, in ordinary times, can maintain a higher standard of currency and payment than the United States.

The government is less costly than that of most other great powers. The expenditures of the current fiscal year, excluding those of the War and Navy Departments, can hardly equal those of the last year, which amounted to \$24,511,476 66. Estimating those of these departments at double the expenditures of the last year before the rebellion, they would for the current year, had the war ended before last midsummer as was anticipated at the date of the last report, amount to the sum of \$55,845,834 48. The interest on the public debt is for the current year estimated at \$25,041,532 07, and will not probably go over that sum. The whole expenditures of the government for the current year, on the supposition of peace, would, therefore, not exceed \$105,371,843 21. This aggregate must be increased hereafter by the addition of interest on the loans of the current and future years and by pensions, the precise amount of which cannot be foreseen. Estimate the former at fifty, and the latter at ten millions a year, and the total annual expenditures in peace will reach, omitting fractions, to \$165,000,000. The expenditures of Great Britain during the year ending March 31, 1862, were \$364,436,682; those of France for 1862, according to French official estimates, will reach \$421,823,900, and the annual expenses of Russia, according to the best accessible information, do not fall short of \$230,000,000.

To meet our annual expenditures, and to assure beyond contingency the punctual discharge of the interest of the public debt, and the creation of a sinking fund for its reduction, Congress has provided a revenue from customs even now reaching nearly seventy millions a year, and a revenue from internal duties which will not probably fall short of one hundred and fifty millions a year.

Without reckoning any other resources than those already provided, the revenue, therefore, will annually exceed the expenditures by fifty-five millions, which sum may be used for the reduction of the public debt. If, then, the war shall be continued, contrary to hope and expectation, to midsummer of 1864, and the public debt shall reach the utmost limit now anticipated of seventeen hundred and fifty millions of dollars, the excess of revenue will reduce that debt during the first year of peace, more than three per cent.

But the American republic possesses immense resources which have not yet been called into contribution. The gold-bearing region of the United States stretches through near eighteen degrees of latitude, from British Columbia on the north to Mexico on the south, and through more than twenty degrees of longitude, from the eastern declivities of the Rocky mountains to the Pacific ocean. It includes two States, California and Oregon; four entire Territories, Utah, Nevada, New Mexico, and Washington; and parts of three other Territories, Colorado, Nebraska, and Dakota. It forms an area of more

than a million of square miles, the whole of which, with comparatively insignificant exceptions, is the property of the nation. It is rich not only in gold, but in silver, copper, iron, lead, and many other valuable minerals. Its product of gold and silver during the current year will not probably fall very much, if at all, short of \$100,000,000; and it must long continue gradually, yet rapidly, to increase. If this product be subjected to a reasonable seignorage, as suggested by some, or if, as suggested by others, the mineral lands be subdivided and sold in convenient parcels, with proper reservations in favor of the miners now in occupation of particular localities, a very considerable revenue may, doubtless, be obtained from this region without hardship to the actual settlers and occupiers.

And there are other mines than those of gold or silver, or copper or iron, in the wide territory which includes the public lands of the United States. Every acre of the fertile soil is a mine which only waits for the contact of labor to yield its treasures; and every acre is opened to that fruitful contact by the Homestead Act. When the opportunities thus offered to industry shall be understood by the working millions of Europe, it cannot be doubted that great numbers will seek American homes, in order to avail themselves of the great advantages tendered to their acceptance by American law. Every working man who comes betters the condition of the nation as well as his own. He adds in many ways, seen and unseen, to its wealth, its intelligence, and its power. It is difficult to estimate the contribution which immigration, properly encouraged by legislation and administration, will make to revenue; but, directly and indirectly, it cannot be reckoned as less than that which may be expected from the metallic products of the gold bearing region.

With such resources at the disposal of the republic, no one need be alarmed lest the United States may become unable to pay the interest on its debt, or to reduce the principal to whatever point the public interest may indicate. The republic is passing through the pangs of a new birth to a nobler and higher life. Twice already she has paid off a national debt contracted for the defence of her rights; the obligations of that which she now incurs for the preservation of her existence will be not less sacredly fulfilled.

But while resources are thus ample, it is not the less the dictate of prudence and of good faith to a generous people that the greatest pains should be taken to reduce the public burdens to the lowest point compatible with justice to honest public creditors. Prodigality may exhaust the amplest resources and impair the firmest credit. To retrench superfluity; to economize expenditures; to adjust accurately measures to objects; to infuse resolute vigor and a just sense of responsibility into every department of public activity are not less important to credit and revenue than to general success in administration.

It has been already stated that the amount to be provided, beyond resources available under existing laws, is, for the current year, \$276,912,517 66, and for the ensuing year, \$627,388,183 56.

To provide these amounts loans in some form must be negotiated.

The Secretary has already expressed the opinion, with great deference to the superior wisdom of Congress, that it will be unwise, unless conditions greatly change, to authorize the increase of United States notes beyond the limit now fixed by law. Should any vacuum be created by the withdrawal of bank note circulation, that vacuum should, doubtless, be filled by United States notes. Should Congress adopt the measures proposed by the Secretary, it is not improbable that an additional issue of fifty millions may be required for that purpose within the year, and an equal additional issue during the following year. And it may well be hoped that military successes, re-establishing the authority of the United States in large districts of the insurgent region, will call for further issues to supply the place of the worthless currency which the rebellion has forced upon the people. Should it be deemed expedient to invest the Secretary with any discretionary power, in view of these contingencies, it should be so limited as to allow no increase of aggregate circulation beyond the clear demands of real business.

A considerable additional sum may probably be obtained by removing the limit on temporary deposits. The amount of these deposits has steadily increased, notwithstanding large repayments to depositors. The treasury of the government has been made the savings bank of the people. Should the restriction be removed, there is reason to believe that twenty-five millions may be received beyond the maximum now fixed, during the year.

But the chief reliance, and the safest, must be upon loans. Without any issues of United States notes beyond the amount now authorized, it seems certain that loans for the whole amount required for the current year can be readily obtained at fair rates; and it may be confidently hoped that before its close the resources of the country will be so well understood, and the restoration of its territorial integrity so well assured, that capitalists will not hesitate to supply whatever may be needed for the subsequent year.

But in order to the advantageous negotiation of loans the action of Congress is necessary.

As an important element of facility in negotiation, the plan for banking associations has been already considered. Little direct aid is, however, to be expected from this plan during the present, nor very much, perhaps, during the next year. The operation of associations organized under it must, at first, be restricted mainly to investing United States notes in bonds; issuing a circulation based on these bonds; and transacting ordinary business. As the notes received for the bonds cannot be reissued without injurious inflation of the circulation, they must necessarily be withdrawn and cancelled. The aggregate circulation of government United States notes withdrawn will be replaced by the amount of national circulation furnished to the associations. The immediate advantage to the government will

be found in the market created for bonds, and the support thereby given to the national credit. The more general advantages which have been described must attend the gradual organization of banking associations, and will only be fully apparent when the national circulation furnished to them shall become the established and sole note circulation of the country.

Other legislation is therefore needed.

The act of last session authorized the Secretary to issue bonds of the United States, already often mentioned as five-twenties, to the amount of five hundred millions of dollars, and to dispose of them for coin or United States notes at the market value thereof. In the same act authority was given to issue \$150,000,000 in United States notes, which authority was afterwards enlarged to \$250,000,000; and it was provided that any holder of such notes to the amount of fifty dollars, or any multiple of fifty, might exchange them for five-twenty bonds, at par.

The effect of these provisions was to make negotiations of considerable amounts impossible; for considerable amounts are seldom taken, except with a view to resales at a profit, and resales at any profit are impossible under the law. Negotiations below market value are not allowed, and if not allowed the taker of the bonds can expect no advance, unless a market value considerably below par shall become established. The act makes advance above par impossible, by authorizing conversion of United States notes into bonds at that rate.

The Secretary respectfully recommends the repeal of both these provisions. The first imposes, it is believed, a restriction which Congress did not intend; and the second has been followed by the inconveniences which were feared, rather than by the benefits which were expected. Convertibility by exchange at will is of little or no advantage to the holder of the notes; for the clauses which secure their receivability for all loans make them practically convertible. Whenever the volume of notes reaches a point at which loans can be effected at rates fair to the country and desirable to takers, loans will, of course, be made, and ample opportunities for conversion offered.

Should Congress, however, be of opinion that these clauses should be retained, it will be necessary to provide for other loans, at rates more favorable to the takers than convertibility into five-twenties. This can be done either by authorizing bonds at longer time, or by increasing the rates of interest offered.

The Secretary cannot recommend either course except as an alternative to no provision at all.

As such an alternative he would prefer the issue of 7.30 three years bonds, convertible into five-twenty sixes at or before maturity, and of smaller notes bearing an interest of 3.65 per cent., as proposed in his first report.

A discretionary power may, perhaps, be advantageously conferred on the Secretary, to be exercised as exigencies may require or allow.

He does not covet the responsibilities belonging to such a power, but would not shrink from such exercise of it as, in his best judgment, the public good would require. He believes it, however, to be unnecessary. He believes that the time and rate of the five-twenty loan authorized were judiciously determined, and he believes that if the suggested changes are made in the law, the needed supplies can be obtained through these loans. No prudent legislator, at a time when the gold in the world is increasing by a hundred millions a year, and interest must necessarily and soon decline, will consent to impose on the labor and business of the people a fixed interest of six per cent on a great debt, for twenty years, unless the necessity is far more urgent than is now believed to exist. The country has already witnessed the results of such measures in the payment, in 1856, of more than four and a half millions of dollars for the privilege of paying a debt of less than forty-one millions, some twelve years, averaged time, before it became due.

The general views of the Secretary may therefore be thus briefly summed:

He recommends that whatever amounts may be needed beyond the sums supplied by revenue and through other indicated modes be obtained by loans, without increasing the issue of United States notes beyond the amount fixed by law, unless a clear public exigency shall demand it. He recommends, also, the organization of banking associations for the improvement of the public credit and for the supply to the people of a safe and uniform currency. And he recommends no change in the law providing for the negotiation of bonds except the necessary increase of amount and the repeal of the absolute restriction to market value and of the clauses authorizing convertibility at will.

If Congress shall concur in these views, the Secretary, though conscious of the great difficulties which vast, sudden, and protracted expenditures impose on him, ventures to hope that he may still be able to maintain the public credit and provide for the public wants.

\* \* \* \* \*

### Special Message—Abraham Lincoln, on Financing the War

Thirty-Seventh Congress, 3d Session

JANUARY 17, 1863.

[Source: Senate Journal, 37th Cong., 3d Sess., pp. 121-122.]

*To the Senate and House of Representatives:*

I have signed the joint resolution to provide for the immediate payment of the army and navy of the United States, passed by the House of Representatives on the 14th, and by the Senate on the 15th instant.

The joint resolution is a simple authority, amounting, however, under existing circumstances, to a direction to the Secretary of the Treasury to make an additional issue of one hundred millions of dol-

lars in the United States notes, if so much money is needed for the payment of the army and navy.

My approval is given in order that every possible facility may be afforded for the prompt discharge of all arrears of pay due to our soldiers and our sailors.

While giving this approval, however, I think it my duty to express my sincere regret that it has been found necessary to authorize so large an additional issue of United States notes, when this circulation and that of the suspended banks together have become already so redundant as to increase prices beyond real values, thereby augmenting the cost of living to the injury of labor, and the cost of supplies to the injury of the whole country.

It seems very plain that continued issues of United States notes, without any check to the issues of suspended banks, and without adequate provision for the raising of money by loans, and for funding the issues so as to keep them within due limits, must soon produce disastrous consequences. And this matter appears to me so important that I feel bound to avail myself of this occasion to ask the special attention of Congress to it.

That Congress has power to regulate the currency of the country, can hardly admit of doubt; and that a judicious measure to prevent the deterioration of this currency, by a seasonable taxation of bank circulation or otherwise is needed, seems equally clear. Independently of this general consideration, it would be unjust to the people at large to exempt banks enjoying the special privilege of circulation from their just proportion of the public burdens.

In order to raise money by way of loans most easily and cheaply, it is clearly necessary to give every possible support to the public credit. To that end, a uniform currency, in which taxes, subscriptions to loans, and all other ordinary public dues, as well as all private dues, may be paid, is almost, if not quite, indispensable. Such a currency can be furnished by banking associations, organized under a general act of Congress, as suggested in my message at the beginning of the present session. The securing of this circulation, by the pledge of United States bonds, as therein suggested, would still further facilitate loans by increasing the present and causing a future demand for such bonds.

In view of the actual financial embarrassments of the government, and of the greater embarrassments sure to come, if the necessary means of relief be not afforded, I feel that I should not perform my duty by a simple announcement of my approval of the joint resolution, which proposes relief only by increasing circulation, without expressing my earnest desire that measures, such in substance as those I have just referred to, may receive the early sanction of Congress.

By such measures, in my opinion, will payment be most certainly secured, not only to the army and navy, but to all honest creditors of the government, and satisfactory provision made for future demands on the treasury.

JANUARY 17, 1863.

ABRAHAM LINCOLN.

**Act of February 25, 1863 (The National Currency Act)**

[12 Statutes at Large 665, Thirty-Seventh Congress, Chapter 58, 3d Session, Approved February 25, 1863, by Abraham Lincoln]

AN ACT TO PROVIDE A NATIONAL CURRENCY, SECURED BY A PLEDGE OF UNITED STATES STOCKS, AND TO PROVIDE FOR THE CIRCULATION AND REDEMPTION THEREOF.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there shall be established in the Treasury Department a separate bureau, which shall be charged with the execution of this and all other laws that may be passed by Congress respecting the issue and regulation of a national currency secured by United States bonds. The chief officer of the said bureau shall be denominated the comptroller of the currency, and shall be under the general direction of the Secretary of the Treasury. He shall be appointed by the President, on the nomination of the Secretary of the Treasury, by and with the advice and consent of the Senate, and shall hold his office for the term of five years unless sooner removed by the President, by and with the advice and consent of the Senate; he shall receive an annual salary of five thousand dollars; he shall have a competent deputy, appointed by the Secretary, whose salary shall be two thousand five hundred dollars, and who shall possess the power and perform the duties attached by law to the office of comptroller during a vacancy in such office, and during his absence or inability; he shall employ, from time to time, the necessary clerks to discharge such duties as he shall direct, which clerks shall be appointed and classified by the Secretary of the Treasury in the manner now provided by law. Within fifteen days from the time of notice of his appointment, the comptroller shall take and subscribe the oath of office prescribed by the Constitution and laws of the United States; and he shall give to the United States a bond in the penalty of one hundred thousand dollars, with not less than two responsible freeholders as sureties, to be approved by the Secretary of the Treasury, conditioned for the faithful discharge of the duties of his office. The deputy comptroller so appointed shall also take the oath of office prescribed by the Constitution and laws of the United States, and shall give a like bond in the penalty of fifty thousand dollars. The comptroller and deputy comptroller shall not, either directly or indirectly, be interested in any association issuing national currency under the provisions of this act.

SEC. 2. *And be it further enacted,* That the comptroller of the currency, with the approval of the Secretary of the Treasury, shall devise a seal, with suitable inscriptions, for his office, a description of which, with a certificate of approval by the Secretary of the Treasury, shall be

Bureau of  
currency.

Comptroller of  
currency; ap-  
pointment;  
term; salary.

Deputy comp-  
troller; salary;  
duties.

Clerks.

Oath and bond  
of Comptroller  
and deputy.

Seal of office.

Certificates, &c., under seal to be received in evidence.

filed in the office of the Secretary of State with an impression thereof, which shall thereupon become the seal of office of the comptroller of the currency, and the same may be renewed when necessary. Every certificate, assignment, and conveyance executed by the comptroller, in pursuance of any authority conferred on him by law, and sealed with his seal of office, shall be received in evidence in all places and courts whatsoever; and all copies of papers in the office of the comptroller, certified by him and authenticated by the said seal, shall in all cases be evidence equally and in like manner as the original. An impression of such seal directly on the paper shall be as valid as if made on wax or wafer.

Impression may be on paper.

Rooms in Treasury building for bureau.

SEC. 3. *And be it further enacted*, That there shall be assigned to the comptroller of the currency by the Secretary of the Treasury suitable rooms in the treasury building for conducting the business of the currency bureau, in which shall be safe and secure fire-proof vaults, in which it shall be the duty of the comptroller to deposit and safely keep all the plates and other valuable things belonging to his department; and the comptroller shall from time to time furnish the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of the said business.

Fire-proof vaults.

"United States bonds" to mean what.

SEC. 4. *And be it further enacted*, That the term "United States bonds," as used in this act, shall be construed to mean all coupon and registered bonds now issued or that may hereafter be issued on the faith of the United States by the Secretary of the Treasury in pursuance of law.

Banking associations, how formed.

SEC. 5. *And be it further enacted*, That associations for carrying on the business of banking may be formed by any number of persons, not less in any case than five.

Certificate to specify what.

SEC. 6. *And be it further enacted*, That persons uniting to form such an association shall, under their hands and seals, make a certificate which shall specify—

First. The name assumed by such association.

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

Third. The amount of its capital stock, and the number of shares into which the same shall be divided; which capital stock shall not be less than fifty thousand dollars; and in cities whose population is over ten thousand persons, the capital stock shall not be less than one hundred thousand dollars.

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

Fifth. The time when such association shall commence.

Sixth. A declaration that said certificate is made to enable such persons to avail themselves of the advantages of this act.

The said certificate shall be acknowledged before a judge of some court of record or a notary public, and the acknowledgement thereof certified under the seal of such court or notary, and shall be transmitted, together with a copy of the articles of association which shall have been adopted, to the comptroller of the currency, who shall record and carefully preserve the same in his office. Copies of such certificate, duly certified by the comptroller, and authenticated by his seal of office, shall be legal and sufficient evidence in all courts and places within the United States, or the jurisdiction of the Government thereof, of the existence of such association, and of every other matter or thing which could be proved by the production of the original certificate.

Certificate to be acknowledged, certified, and preserved in office of comptroller.

Authenticated copies.

SEC. 7. *And be it further enacted*, That at least thirty per centum of the capital stock of such association shall be paid in at the time of the commencement of its banking business, and the remainder of the capital stock of such association shall be paid in instalments of at least 10 per centum each on the whole amount to which the association shall be limited, as frequently as one instalment at the end of each succeeding two months from the time of the commencement of its banking operations, until the whole of the capital stock shall be paid in.

Capital stock, how paid in.

SEC. 8. *And be it further enacted*, That if any shareholder, or his assignee, shall fail to pay any instalment on the stock when the same is required by the foregoing section to be paid, the directors of such association may sell the stock held by such delinquent shareholder, at public auction, having given three weeks' previous notice thereof in a newspaper published and of general circulation in the city where the association is located, if the same be located in a city, and if not so located, then in a newspaper printed, or of general circulation, in the county where the same is located, to any person who will pay the highest price therefor, and 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 costs of advertisement and sale, the amount previously paid shall be forfeited to the association, and such stock may subsequently be sold as the directors may order.

Stock of delinquent shareholder may be sold. Mode of sale.

SEC. 9. *And be it further enacted*, That whenever a certificate shall have been transmitted to the comptroller of the currency, as provided in this act, and the association transmitting the same shall notify the comptroller that at least thirty per centum of its capital stock has been paid as aforesaid, and that such association has complied with all the provisions of this act required to be complied with before such association shall be authorized to commence the business of banking, and

Comptroller to examine and see if requisitions of this act are complied with.

that such association is desirous of commencing such business, the comptroller shall immediately proceed, in such manner as he shall by general rules prescribe, to examine the condition of such association; to ascertain especially the amount of money paid in on account of its capital stock; the name and place of residence of each of the directors of such association, and the amount of the capital stock of which each is the bona fide owner, and generally whether such association has complied with all the requirements of this act 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 such association, a statement of all the facts necessary to enable the comptroller to determine whether such association is lawfully entitled to commence the business of banking under this act.

If lawfully entitled to begin banking, comptroller to give certificate to that effect.

SEC. 10. *And be it further enacted*, That 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 shall appear that such association is lawfully entitled to commence the business of banking, the comptroller shall give to such association a certificate under his hand and official seal, showing that such association has complied with all the provisions of this act required to be complied with before being entitled to commence the business of banking under it, and that such association is authorized to commence said business accordingly; and it shall be the duty of such association to cause said certificate to be published in some newspaper, published in the city or county where such association is located, for at least sixty days next after the issuing thereof: *Provided*, That if no newspaper is published in such city or county, such certificate shall be published as the comptroller of the currency shall direct.

Certificate to be published.

Association may have common seal, name, and continue not over twenty years. Powers of association.

SEC. 11. *And be it further enacted*, That every association formed pursuant to the provisions of this act may make and use a common seal, and shall have succession by the name designated in its articles of association and for the period limited therein, not, however, exceeding twenty years from the passage of this act; by such name may make contracts, sue and be sued, complain and defend in any court of law or equity as fully as natural persons, and may make by-laws, approved by the comptroller of the currency, not inconsistent with the laws of the United States or the provisions of this act, for the election of directors, the management of its property, the regulation of its affairs, and for the transfer of its stock; and shall have power to carry on the business of banking by obtaining and issuing circulating notes in ac-

cordance with the provisions of this act; by discounting bills, notes, and other evidences of debt; by receiving deposits; by buying and selling gold and silver bullion, foreign coins, and bills of exchange; by loaning money on real and personal security, in the manner specified in their articles of association, for the purposes authorized by this act, and by exercising such incidental powers as shall be necessary to carry on such business; to choose one of their number as president of such association, and to appoint a cashier and such other officers and agents as their business may require; and to remove such president, cashier, officers, and agents at pleasure, and appoint others in their place; and their usual business shall be transacted in banking offices located at the places specified respectively in its certificate of association, and not elsewhere.

Business, where to be transacted.

SEC. 12. *And be it further enacted*, That the shares of associations formed under this act shall be deemed personal property, and shall be transferable on the books of the association in such manner as may be prescribed in the by-laws or articles of association; and 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 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. For all debts, contracted by such association for circulation, deposits, or otherwise, each shareholder shall be liable to the amount, at their par value, of the shares held by him in addition to the amount invested in such shares.

Shares to be personal property.

How transferable.

Shareholder personally liable to twice the amount of his shares.

SEC. 13. *And be it further enacted*, That it shall be lawful for any association formed under this act, by its articles of association, to provide for an increase of its capital from time to time as may be deemed expedient, subject to the limitations of this act; but no such increase shall be valid until the increased capital shall be paid in, and notice thereof shall have been transmitted to the comptroller of the currency, and his certificate obtained, specifying the amount of such increase of capital stock, and that the same has been duly paid to such association.

Capital stock, how may be increased.

SEC. 14. *And be it further enacted*, That it shall be lawful for any such association to purchase, hold, and convey real estate as follows:

Real estate of such association.

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 loans made by such association, or for moneys due thereto.

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 such association.

Such association shall not purchase or hold real estate in any other case or for any other purpose than as specified in this section.

Associations, before commencing banking business, to transfer to treasurer

SEC. 15. *And be it further enacted*, That every association, after having complied with the provisions of this act preliminary to the commencement of banking business under its provisions, shall transfer and deliver to the treasurer of the United States any United States bonds bearing interest to an amount not less than one third of the capital stock paid in; which bonds shall be deposited with the treasurer of the United States, and by him safely kept in his office until the same shall be otherwise disposed of, in pursuance of the provisions of this act.

United States bonds, and shall be entitled to receive ninety per cent. of their current value in circulating currency notes.

SEC. 16. *And be it further enacted*, That upon the making of any such transfer and delivery, 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 the par value thereof, if bearing interest at the rate of six per centum, or of equivalent United States bonds bearing a less rate of interest; and at no time shall the total amount of such notes, issued to any such association, exceed the amount at such time actually paid in of its capital stock.

Issue of circulating notes under this act, not to exceed \$300,000,000.

SEC. 17. *And be it further enacted*, That the entire amount of circulating notes to be issued under this act shall not exceed three hundred millions of dollars. One hundred and fifty millions of which sum shall be apportioned to associations in the States, in the District of Columbia, and in the Territories, according to representative population, and the remainder shall be apportioned by the Secretary of the Treasury among associations formed in the several States, in the District of Columbia, and in the Territories, having due regard to the existing banking capital, resources, and business, of such States, district, and Territories.

How to be apportioned

Circulating notes, how to be prepared.

SEC. 18. *And be it further enacted*, That, in order to furnish suitable notes for circulation, the comptroller of the currency is hereby authorized and required, under the direction of the Secretary of the Treasury, to cause plates to be engraved in the best manner to guard against counterfeiting and fraudulent alterations, and to have printed therefrom, and numbered, such quantity of circulating notes, in blank, of the denominations of five dollars, ten dollars, twenty dollars, fifty dollars, one hundred dollars, five hundred dollars, and one thousand dollars, as may be required to supply, under this act, the

associations entitled to receive the same; which notes shall express upon their face that they are secured by United States bonds, deposited with the treasurer of the United States, and issued under the provisions of this act, which statement shall be attested 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 the said notes shall bear such devices and such other statements, and shall be in such form, as the Secretary of the Treasury shall, by regulation, direct.

Notes to express what.

SEC. 19. *And be it further enacted*, That 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 provisions of this act respecting the procuring of such notes, shall be audited and paid as contingent expenses of the Treasury Department; and for the purpose of reimbursing the same, and all other expenses incurred under this act, and in lieu of all taxes upon the circulation authorized by this act, or upon the bonds deposited for the security of the same, such association organized under this act shall semi-annually, on the first days of January and July, after its organization, pay to the comptroller of the currency, in lawful money of the United States, one per centum on the amount of circulating notes received by such association, and in default thereof, the treasurer of the United States is hereby authorized to reserve and retain one per centum on the amount of said bonds so deposited, at each semi-annual payment of interest thereon; and all sums so reserved and retained shall be paid into the treasury under the direction of the Secretary, and every bank, banking association, or corporation, not organized under the provisions of this act, issuing notes calculated or intended to circulate as money, shall, on the first day of July next, and regularly on the first days of January and July thereafter, make and deliver to the comptroller of the currency a true and accurate return of the gross amount of notes issued by it, whether in circulation, or in its vaults, or on deposit elsewhere, and in default of any such return, the bank, banking association, or corporation so failing to make return, shall pay to the United States a penalty of two per centum upon its entire capital stock, to be recovered, for the use of the United States, in any court of competent jurisdiction.

Plates and dies to be under control of comptroller.

Expense of procuring notes.

Each association to pay annually one per cent. of its circulation.

Provision in case of default.

Banks, &c., not organized under this act, to make returns semi-annually.

Penalty for default, and how recovered.

SEC. 20. *And be it further enacted*, That after any such association shall have 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

When association may issue the currency circulation as money;

to be received at par for all except duties, and to be paid for all except interest on public debt.

Other issues prohibited.

Bonds transferred, as security for circulation, to have the fact stated thereon.

How transferred.

Record of transfers to contain what.

Duty of comptroller.

Duty of comptroller.

Comptroller and treasurer may examine each others books.

place of business, such association is hereby authorized to issue and circulate the same as money; and the same shall be received as par in all parts of the United States in payment of taxes, excises, public lands, and all other dues to the United States, except for 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 public debt; and no such association shall issue post notes, or any other notes to circulate as money, than such as are authorized by the foregoing provisions of this act.

SEC. 21. *And be it further enacted*, That all transfers of United States bonds which shall be made by any association as security for circulating notes under the provisions of this act, shall be made to the treasurer of the United States, with a memorandum written or printed on the certificate of such bonds, and signed by the cashier, or some other officer of the association making the deposit, stating that it is held in trust for the association on whose behalf such transfer is made, and as security for the redemption and payment of the circulating notes delivered to such association; and no transfer of any such bonds by the treasurer shall be deemed valid, or of binding force and effect, unless sanctioned by the order or request of the comptroller of the currency upon the treasurer. It shall be the duty of the comptroller of the currency to keep in his office a book in which shall be entered the name of every association from whose account such transfer of bonds is made by the treasurer, and the name of the party to whom such transfer is made, unless such transfer is made in blank, in which case the fact shall be stated in said book, and in either case the par value of the bonds so transferred shall be entered therein; and it shall be the duty of the comptroller, immediately upon countersigning and entering the same, to advise by mail the association from whose account such transfer was made, the kind of bonds and the amount thereof so transferred.

SEC. 22. *And be it further enacted*, That it shall be the duty of the comptroller of the currency to countersign and enter in the book, in the manner aforesaid, every transfer or assignment of any bonds held by the treasurer presented for his signature; and the comptroller shall have at all times during office hours access to the books of the treasurer, for the purpose of ascertaining the correctness of the transfer or assignment presented to him to countersign; and the treasurer shall have the like access to the book above mentioned, kept by the comptroller, during office hours to ascertain the correctness of the entries in the same.

SEC. 23. *And be it further enacted*, That it shall be the duty of either the president or cashier of every banking association having stocks deposited in the office of the treasurer of the United States, once or more in each fiscal year, and at such time or times during the ordinary business hours as said officer or officers may select, to examine and compare the bonds so pledged with the books of said Department, and, if found correct, to execute to the said 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 such certificate. Such examination may be made by an agent of such association, duly appointed in writing for that purpose, whose certificate before mentioned shall be of like force and validity as if executed by such president or cashier.

Some officer of each banking association to examine yearly its bonds and compare same with the books of the department.

SEC. 24. *And be it further enacted*, That every association issuing circulating notes under the provisions of this act, shall make a quarterly report to the comptroller of the currency commencing on the first day of the quarter of the year next succeeding the organization of such association, and continuing on the first days of each succeeding quarter in every year thereafter, which report shall be verified by the oath or affirmation of the president and cashier, and all wilful false swearing in respect to such report shall be perjury, and subject to the punishment prescribed by law for such offence. The report hereby required shall be in the form prescribed by the comptroller, and shall contain a true statement of the condition of the association making such report, before the transaction of any business on the morning of the day specified, next preceding the date of such report, in respect of the following items and particulars, to wit: Loans and discounts, overdrafts due from banks, amount due from the directors of the association, real estate, specie, cash items, stocks, bonds, and promissory notes, bills of solvent banks, bills of suspended banks, loss and expense account, capital, circulation, profits, amount due to banks, amount due to individuals and corporations other than banks, amount due the treasurer of the United States, amount due to depositors on demand, amount due, not included under either of the above heads. And it shall be the duty of the comptroller to publish full abstracts of such reports together in two newspapers to be designated by him for that purpose, one in the city of Washington and the other in the city of New York, exhibiting the items of capital, circulation, and deposits, specie and cash items, public securities and private securities; and the separate report of each association shall be published in a newspaper published in the place where such association is established, or, if there be no newspaper at such place, then in a newspaper published at the capital of the State, at the expense of the association

Associations to report quarterly to comptroller under oath.

Contents of report.

Abstracts of reports to be published.

Separate reports of each association to be published in local newspaper.

making such report. In addition to the quarterly reports required by this section, every association located and doing business in the cities of Boston, Providence, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, and New Orleans, shall publish, or cause to be published, on the morning of the first Tuesday in each month, in a newspaper printed in the city in which the association making such report is located, to be designated by the comptroller of the currency, a statement, under the oath of the president or cashier, showing the condition of the association making such statement, on the morning of the day next preceding the date of such statement, in respect to the following items and particulars, to wit: average amount of loans and discounts, specie, deposits, and circulation.

Association in larger cities to publish reports monthly.

Upon failure to redeem its circulation, holder may protest the same, unless, &c.

Association not afterwards to continue banking business.

Proviso.

Upon notice of such failure to redeem, comptroller to ascertain the fact.

SEC. 25. *And be it further enacted*, That if any such association shall, at any time fail to redeem, in the lawful money of the United States, any of its circulating notes, when payment thereof shall be lawfully demanded, during the usual hours of business, at the office of such association, the holder may cause the same to be protested, in one package, by a notary public, unless the president or cashier of the association shall offer to waive demand and notice of the protest, and shall, in pursuance of such offer, make, sign, and deliver 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; and such 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; and after such default 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: *Provided, however*, That if satisfactory proof be produced to such notary public that the payment of any such notes is restrained by order of any court of competent jurisdiction, such notary public shall not protest the same; and when the holder of such notes shall cause more than one note or package to be protested on the same day, he shall not receive pay for more than one protest.

SEC. 26. *And be it further enacted*, That on receiving notice that any such association has failed to redeem any of its circulating notes, as specified in the next 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 such association has refused to pay its circulating notes, in the lawful money of the United States, when demanded as aforesaid, and report

to the comptroller the facts so ascertained; and if, from such protest or the reports so made, the comptroller shall be satisfied that such association has refused to pay its circulating notes as aforesaid, and is in default, he shall, within thirty days after he shall have received notice of such failure, declare the United States bonds and securities pledged by such association forfeited to the United States, and the same shall thereupon be forfeited accordingly; and thereupon the comptroller shall immediately 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, whereupon said comptroller may, in his discretion, cancel an equal amount of the bonds pledged by such association, equal at current market rates, not exceeding par, to the notes paid; and it shall be lawful for the Secretary of the Treasury, from time to time, to make such regulations respecting the disposition to be made of such circulating notes after presentation thereof for payment as aforesaid, and respecting the perpetuation of the evidence of the payment thereof, as may seem to him proper; but all such notes, on being paid, shall be cancelled; and for any deficiency in the proceeds of the bonds pledged by such association, when disposed of as hereinafter specified, to reimburse to the United States the amount so expended in paying the circulating notes of such association, the United States shall have a first and paramount lien upon all the assets of such association, 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.

SEC. 27. *And be it further enacted*, That whenever the comptroller shall become satisfied, as in the last preceding section specified, that any such association has refused to pay its circulating notes as therein mentioned, he may, instead of cancelling the United States bonds pledged by such association, as provided in the next preceding section, cause so much of them as may be necessary to redeem the outstanding circulating notes of such association to be sold at public auction in the city of New York, after giving thirty days' notice of such sale to such association.

SEC. 28. *And be it further enacted*, That the comptroller of the currency may, if he shall be of opinion that the interests of the United States will be best promoted thereby, sell at private sale any of the stock so transferred to him by such association, and receive therefor either money or the circulating notes of such failing association: *Provided*, That no such bonds shall be sold by private sale for less than the par, nor less than the

If satisfied of such failure, he shall declare the bonds pledged to be forfeited, and notify holders of notes to present them for payment.

Proceedings.

Instead of cancelling the bonds comptroller may sell them at public auction,

or private sale.

but not for less than par.

Sale, when complete.

market value thereof at the time of sale. *And provided further*, That no sales of any such stock, either public or private, shall be complete until the transfer thereof shall have been made with the formalities prescribed in this act.

Comptroller may appoint a receiver.

SEC. 29. *And be it further enacted*, That on becoming satisfied, as specified in this act, that any such 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 shall deem proper, who, 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 such association, 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, sell all the real and personal property of such association, on such terms as the court shall direct; and such receiver shall pay over all moneys so made to the treasurer of the United States, and also make report to the comptroller of the currency of all his acts and proceedings. The comptroller shall thereupon 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; and from time to time the comptroller, after full provision shall have been first made for refunding to the United States any such deficiency in redeeming the notes of such association as is mentioned in this act, shall make a ratable dividend of the moneys so paid over to him by such receiver on all such claims as may have been so proved or adjudicated in a court of competent jurisdiction, and from time to time, as the proceeds of the assets of such association shall be paid over to him, he shall make further dividends, as aforesaid, on all claims previously proved or adjudicated; and the remainder of such 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: *Provided, however*, That if any such association, against which proceedings have been so instituted on account of any alleged refusal to redeem its circulating notes as aforesaid, shall deny having failed to do so, such association may at any time within ten days after such association shall have been

Proceedings in such case.

Association denying failure may apply to court for injunction, and have the issue tried.

notified of the appointment of an agent, as provided in this act, apply to the nearest circuit, or district, or territorial court of the United States, to enjoin further proceeding 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. 30. *And be it further enacted*, That the bonds transferred to the treasurer of the United States, as hereinbefore provided, by any banking association for the security of its circulating notes, shall be held exclusively for that purpose, until such notes shall be redeemed, except as provided in this act; but the comptroller of the currency may give to any such banking association powers of attorney to receive and appropriate to its own use the interest on the bonds which shall have been so transferred to the treasurer by it; but such powers shall become inoperative whenever such banking association shall fail to redeem its circulating notes as aforesaid; and said comptroller may direct the return of any of said bonds to the banking association which transferred the same, upon the surrender to him and the cancellation of a proportionate amount of such circulating notes: *Provided*, That ninety per centum of the current market value of the remaining bonds which shall have been transferred by the banking association offering to surrender such circulating notes shall be equal to the amount of all the circulating notes retained by such banking association: *And provided, further*, That there shall have been no failure by such association to redeem its circulating notes, and that there shall have been no other violation by such association of any of the provisions of this act for the security of the creditors of such association; nor shall the treasurer be required to surrender such bonds in fractional sums of less than one thousand dollars; and if, at any time after said bonds shall be deposited with the treasurer of the United States, as aforesaid, the market or cash value shall be reduced, the comptroller of the currency is hereby authorized to demand and receive the amount of such depreciation in other United States bonds at cash value, or in money, from the association receiving said bills, to be deposited with the treasurer of the United States, as long as such depreciation continues.

Bonds transferred as security, shall be held exclusively for that purpose, until, &c.

Interest.  
May be surrendered on cancelling circulation.

Proviso.

If market value of bonds depreciates, and difference is not made good, comptroller to retain interest,

SEC. 31. *And be it further enacted*, That whenever the price of any of the bonds pledged as aforesaid for the redemption of the circulating notes of any such banking association shall be, at the stock exchange in the city of New York, for four consecutive weeks, at a rate less than that at which they shall have been estimated when so pledged, and such depreciation shall not have been made good by a deposit of other bonds or money, it shall be the duty of the comptroller of the currency to notify the treasurer of the United States of such fact, and the payment of interest upon such depreciated bonds shall be suspended, and such interest shall be retained by said treasurer until the same, when added to the current market value of the bonds so pledged, to be ascertained as before provided, shall be equal to the amount for which such bonds were pledged: *Provided*, That it shall be the duty of the comptroller of the currency, at the expiration of every period of three months, to cause the whole of the sums so retained, and then remaining in the treasury of the United States, to be invested in United States bonds, in the name of the comptroller of the currency, in trust for the respective associations by which the bonds on which such interest shall have accrued shall have been pledged; and whenever the price of such depreciated bonds at the stock exchange in New York shall rise to the price at which they were pledged, and so remain for four consecutive weeks, such investment shall be assigned to such association, and all accruing interest on such pledged bonds shall thereafter be paid to such association on demand thereof.

and invest the same quarterly in bonds.

When former market value is regained.

Worn-out or mutilated notes may be exchanged for new.

Proceedings.

SEC. 32. *And be it further enacted*, That it shall be the duty of the comptroller of the currency to receive worn-out or mutilated circulating notes issued by any such banking association, and to deliver in place thereof to such association other blank circulating notes to an equal amount; and such worn-out or mutilated notes, after a memorandum shall have 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 cancelled, shall be burned to ashes in presence of three persons, one to be appointed by the Secretary of the Treasury, one by the comptroller of the currency, and one by the treasurer of the United States, under such regulations as the Secretary of the Treasury may prescribe; and in case such notes shall have been delivered to the comptroller by an officer or agent of such association, then in the

presence, also, of such officer or agent; and a certificate of such burning, signed by the parties so appointed, shall be made in the books of the comptroller, and a duplicate thereof given to such officer or agent.

SEC. 33. *And be it further enacted*, That it shall be unlawful for any officer acting under the provisions of this act to countersign or deliver to any such association, or to any other company or person, any circulating notes contemplated by this act, except as hereinbefore provided, and in accordance with the true intent and meaning of this act; and any officer who shall violate the provisions of this section shall be deemed guilty of a high misdemeanor, and on conviction thereof shall be punished by fine not exceeding double the amount so countersigned and delivered, and imprisonment not exceeding fifteen years, at the discretion of the court in which he shall be tried.

SEC. 34. *And be it further enacted*, That all fees for protesting the notes issued by any such banking association shall be paid by the person procuring the protest to be made, and such banking association shall be liable therefor; but no part of the stock pledged by such banking association, as aforesaid, shall be applied to the payment of such fees; and all expenses of any preliminary or other examinations into the condition of any association shall be paid by such association; and all expenses of any receivership shall be paid out of the assets of such association before distribution of the proceeds thereof.

SEC. 35. *And be it further enacted*, That the stockholders, collectively, of any such association shall at no time be liable to such association, either as principal debtors or sureties, or both, to an amount greater than three fifths of the capital stock actually paid in and remaining undiminished by losses or otherwise; nor shall the directors be so liable, except to such amount and in such manner as shall be prescribed by the by-laws of such association, adopted by its stockholders to regulate such liabilities.

SEC. 36. *And be it further enacted*, That the capital stock of any association formed under this act shall be divided into shares of one hundred dollars each, and shall be assignable on the books of the association in such manner as its by-laws shall prescribe; but no shareholder in any association under this act shall have power to sell or transfer any share held in his own right so long as he shall be liable, either as principal, debtor, surety, or otherwise, to the association for any debt

Notes not to be delivered except as provided in this act.

Penalty.

Costs of protest.

Expenses of preliminary examination, of receivership.

Indebtedness of stockholders to association limited,

of directors.

Capital stock of association, how divided.

Shares, how assignable.

Limit upon sale and transfer.

which shall have become due and remain unpaid, nor in any case shall such shareholder be entitled to receive any dividend, interest, or profit on such shares so long as such liabilities shall continue, but all such dividends, interests, and profits shall be retained by the association, and applied to the discharge of such liabilities; and no stock shall be transferred without the consent of a majority of the directors while the holder thereof is thus indebted to the association.

Associations  
not to take  
their stock as  
security for  
loans, &c.,

nor own it, or  
stock of other  
association,  
unless, &c.

SEC. 37. *And be it further enacted*, That no banking association shall take, as security for any loan or discount, a lien upon any part of its capital stock; but the same security, both in kind and amount, shall be required of shareholders as of other persons; and no such banking association shall be the purchaser or holder of any portion of its capital stock, or of the capital stock of any other incorporated company, unless such purchase shall be necessary to prevent loss upon a debt previously contracted in good faith, on security which, at the time, was deemed adequate to insure the payment of such debt, independent of any lien upon such stock; or in case of forfeiture of stock for the non-payment of instalments due thereon, and stock so purchased or acquired, shall in no case be held by such association so purchasing for a longer period of time than six months, if the same can, within that time, be sold for what the stock cost.

Shareholders  
entitled to one  
vote for each  
share.

Proxies.

SEC. 38. *And be it further enacted*, That 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 stockholder whose liability is past due and unpaid shall be allowed to vote.

Directors.

Number.

Residence.

Interest.

SEC. 39. *And be it further enacted*, That the affairs of every such association shall be managed by not less than five nor more than nine directors, one of whom shall be president of the association; every director shall, during his whole term of service, be a citizen of the United States and a resident of the state in which such association is located. At least three fourths of the directors shall have resided in the state in which such association is located one year next preceding their election as directors; and each director shall own in his own right, at least one per centum of the capital stock of such as-

sociation not exceeding two hundred thousand dollars, and the half of one per centum of its capital if over two hundred thousand dollars. Each director 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 act, and that he is the bonâ fide owner, in his own right, of the shares of stock 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 obtained or debt owing to the association of which he is a director, which oath, subscribed by himself, and certified by the officer before whom it is taken, shall be immediately transmitted to the comptroller of the currency, and by him filed and preserved in his office.

Oath.

SEC. 40. *And be it further enacted*, That the directors of any such association first elected shall hold their places until their successors shall be elected and qualified. All subsequent elections shall be held annually, on such day in the month of January as the stockholders of said association may prescribe; and the directors so elected shall hold their places for one year, and until their successors are elected and qualified. But any director removing from the state, or ceasing to be the owner of the requisite amount of stock, shall thereby vacate his place. Any vacancy in the board shall be filled by appointment by the remaining directors. The director so appointed shall hold his place until the next annual election; and if, from any cause, an election of directors shall not be 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 having been given in a newspaper printed, or of general circulation, 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 in the county adjoining.

Term of office.

Election.

Vacancy.

SEC. 41. *And be it further enacted*, That every such association 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 outstanding notes of circulation and its deposits; and whenever the amount of its outstanding notes of circulation and its deposits shall exceed the above-named proportion for the space of twelve days, or whenever such lawful money of the United States shall at any time fall below the amount of twenty-five per centum of its circulation and deposits, such association shall not increase its

Associations to have what amount of money on hand.

When not to make new loans, &amp;c.

What may be deemed lawful money.

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 its deposits and lawful money of the United States shall be restored: *Provided, however,* That clearing-house certificates, representing specie or lawful money specially deposited for the purpose of any clearing-house association, shall be deemed to be lawful money in the possession of any association belonging to such clearing-house holding and owning such certificates, and considered to be a part of the lawful money which such association is required to have, under the foregoing provisions of this section: *Provided, further,* That any balance due to any association organized under this act in other places from any association in the cities of Boston, Providence, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, or New Orleans, in good credit, subject to be drawn for at sight, and available to redeem their circulating notes and deposits, may be deemed to be a part of the lawful money which such association in other places than the cities of Boston, Providence, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, and New Orleans, are required to have by the foregoing provisions of this section, to the extent of three fifths of the said amount of twenty-five per centum required. And it shall be competent for the comptroller of the currency to notify any such association whose lawful money reserve, as aforesaid, shall fall below said proportion of twenty-five per centum, to make good such reserve; and if such association shall fail for thirty days thereafter so to make good its reserve of lawful money of the United States, the comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of such association, as provided in this act.

Indebtedness of associations limited, except, &c.

SEC. 42. *And be it further enacted,* That 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 the following accounts, that is to say:

First. On account of its notes of circulation.

Second. On account of moneys deposited with, or collected by, such association.

Third. On account of bills of exchange or drafts drawn against money actually on deposit to the credit of such association, or due thereto.

Fourth. On account of liabilities to its stockholders, for money paid in on capital stock, and dividends thereon, and reserved profits.

SEC. 43. *And be it further enacted*, That no association shall, either directly or indirectly, pledge or hypothecate any of its notes of 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.

Associations not to pledge their circulation.

SEC. 44. *And be it further enacted*, That no association, or any member thereof, shall, during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in form of dividends, loans to stockholders for a longer time than six months or in any other manner, any portion of its capital; and if losses shall at any time have 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 shall continue its banking operations, to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts; and all debts due to any association, on which interest is past due and unpaid for a period of six months, unless the same shall be well secured, and shall be in process of collection, shall be considered bad debts within the meaning of this act.

Capital not to be diminished by dividends, &c.

SEC. 45. *And be it further enacted*, That the directors of every association shall semi-annually in the amounts of May and November, declare a dividend of so much of the profits of such association as they shall judge expedient; and on each dividend day, the cashier shall make, and verify by his oath, a full, clear, and accurate statement of the condition of the association, as it shall be on that day after declaring the dividend; which statement shall contain—

Dividends in May and November.

On each dividend day cashier to make statement to comptroller as to

First. The amount of the capital stock actually paid in and then remaining, as the capital stock of such association.

Capital.

Secondly. The amount of the circulating notes of such association then in circulation.

Circulation.

Thirdly. The greatest amount in circulation at any time since the making of the last previous statement, as shall have been exhibited by the weekly statements of the cashier, specifying the times when the same occurred.

Due other banks.

Fourthly. The amount of balances and debts of every kind due to other banks and banking associations.

Depositors.

Fifthly. The amount due to depositors.

Liabilities.

Sixthly. The total amount of debts and liabilities of every description, and the greatest amount since the making of the last previous statement, specifying the time when the same accrued.

- Dividend.** Seventhly. The total amount of dividend declared on the day of making the statement.
- Subject to draft.** Eighthly. The amount of lawful money of the United States belonging to the association, and in its possession at the time of making the statement.
- Bills on hand.** Ninthly. The amount subject to be drawn at sight, in lawful money of the United States, then remaining on deposit with any associations, banks or bankers; specifying the amounts so on deposit in the cities of Boston, Providence, New York, Philadelphia, Baltimore, Cincinnati, Chicago, St. Louis, and New Orleans.
- Due from other banks.** Tenthly. The amount then on hand of bills or notes, issued by other banks and banking associations.
- Assets.** Eleventhly. The amount of balances due from other banks, bankers, and banking associations, excluding deposits subject to be drawn at sight as aforesaid.
- Real and personal estate.** Twelfthly. The amount on hand of bills, bonds, stocks, notes, and other evidences of debts, discounted or purchased by the association, specifying particularly the amount of suspended debt, the amount considered bad, the amount considered doubtful, and the amount in suit or judgment.
- Thirteenthly. The value of the real and personal property held for the convenience of the association, specifying the amount of each.
- Fourteenthly. The amount of real estate taken in payment of debts due to the association.
- Undivided profits. Debts of directors.** Fifteenthly. The amount of the undivided profits of the association.
- Sixteenthly. The total amount of the liability to the association by the directors thereof collectively, specifying the gross amount of such liabilities as principal debtors, and the gross amount of indorsers or sureties.
- The statement thus made shall forthwith be transmitted to the comptroller of the currency.
- Rate of interest on loans and discounts.** SEC. 46. *And be it further enacted,* That every association may take, reserve, receive, and charge on any loan, or discount made, or upon any note, bill of exchange, or other evidence of debt, such rate of interest or discount as is for the time the established rate of interest for delay in the payment of money, in the absence of contract between the parties, by the laws of the several States in which the associations are respectively located, and no more: *Provided, however,* That interest may be reserved or taken, in advance, at the time of making the loan or
- Usury to forfeit the debt.**

discount, according to the usual rules of banking; and the knowingly taking, reserving, or charging of a rate of interest greater than that allowed by this section shall be held and adjudged a forfeiture of the debt or demand on which the same is taken, reserved, or charged; but the purchase, discount, or sale of a bill of exchange, drawn on actually existing values, and payable at another place than the place of such purchase, discount, or sale, at the current discount or premium, shall not be considered as taking, reserving, or charging interest.

SEC. 47. *And be it further enacted*, That the total liabilities of any person, or of any company or firm, (including in the liabilities of a company or firm the liabilities of the several members thereof,) to any association, including liabilities as acceptor of bonâ fide bills of exchange, payable out of the state where the association is located, shall at no time exceed one third; exclusive of liabilities as acceptor, one fifth; and exclusive of liabilities on such bills of exchange, one tenth part of the amount of the capital stock of such association actually paid in.

Limit of liability of any individual to association.

SEC. 48: *And be it further enacted*, That 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, nor shall it in any other mode put in circulation the notes of any bank or banking association, which notes shall not, at any such time, be receivable, at par, on deposit, and in payment of debts by the association so paying out or circulating such notes; nor shall it 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.

What notes associations shall not pay out.

SEC. 49. *And be it further enacted*, That all transfers of the notes, bonds, bills of exchange, and other evidences of debt owing to any 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, with a view to prevent the application of its assets in the manner prescribed by this act, 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.

All transfers, &c., after any act of insolvency, or in contemplation thereof, with intent, &c., to be void.

If directors knowingly violate, &c., any provisions of this act, the franchise to be forfeited, and they held individually.

SEC. 50. *And be it further enacted*, That if the directors of any 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 act, all the rights, privileges, and franchises of the association derived from this act shall be thereby forfeited; such violation shall, however, be determined and adjudged by a proper circuit, district or territorial court of the United States, 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.

Comptroller to cause examinations of each association to be made.

SEC. 51. *And be it further enacted*, That the comptroller of the currency, with the approbation of the Secretary of the Treasury, as often as shall be deemed necessary or proper, shall appoint a suitable person or persons to make an examination of the affairs of every banking association, which person shall not be a director or other officer in any association whose affairs he shall be appointed to examine, and 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; and the association shall not be subject to any other visitatorial powers than such as are authorized by this act, except such as are vested in the several courts of law and chancery. And 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.

Pay of examiners.

Embezzlement, &c., of funds by officers or directors, how punished.

SEC. 52. *And be it further enacted*, That every president, director, cashier, teller, clerk, or agent of any association, who shall embezzle, abstract, or wilfully misapply any of the moneys, funds, or credits of the association, or shall, without authority from the directors, issue or put in circulation any of the notes of the association, or shall, without such authority, issue or put forth any certificate of deposit, draw any order or bill of exchange, make any acceptance, assign any note, bond, draft, bill of exchange, mortgage, judgment, or decree, or shall make any false entry in any book, report, or statement of the association, with intent, in either case, to injure or defraud any other company, body politic, or corporate, or any individual person, or to deceive any officer or agent appointed to examine the affairs of any such association, shall be deemed guilty of a misde-

meanor, and upon conviction thereof shall be punished by imprisonment not less than five nor more than ten years.

SEC. 53. *And be it further enacted*, That the president and cashier of every such 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 in the office where its business is transacted; and such list shall be subject to the inspection of all the shareholders and creditors of the association during business hours of each day in which business may be legally transacted; and a copy of such list, verified by the oath of such president or cashier, shall, at the beginning of every year, be transmitted to the comptroller of the currency, commencing on the first day of the first quarter after the organization of the association.

List of shareholders to be kept.

SEC. 54. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized, whenever, in his judgment, the public interests will be promoted thereby, to employ any of such associations doing business under this act as depositaries of the public moneys, except receipts from customs.

Any association may be made a depositary of public moneys, except, &c.

SEC. 55. *And be it further enacted*, That all suits and proceedings arising out of the provisions of this act, in which the United States or its officers or agents shall be parties, shall be conducted by the district attorneys of the several districts, under the direction and supervision of the solicitor of the treasury.

Suits in behalf of the United States to be conducted by district attorneys.

SEC. 56. *And be it further enacted*, That every person who shall mutilate, cut, deface, disfigure, or perforate with holes, or shall unite or cement together, or do any other thing to any bank bill, draft, note, or other evidence of debt issued by any such association, or shall cause or procure the same to be done, with intent to render such bank bill, draft, note, or other evidence of debt, unfit to be reissued by said association, shall upon conviction forfeit fifty dollars to the association who shall be injured thereby, to be recovered by action in any court having jurisdiction.

Mutilation, &c., of such bank bills with intent, &c., how punished.

SEC. 57. *And be it further enacted*, That if any person shall falsely make, forge, or counterfeit, or cause or procure to be made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting, any note in imitation of, or purporting to be in imitation of, the circulating notes issued under the provisions of this act, or shall pass, utter, or publish, or attempt to pass, utter, or publish any false, forged, or counterfeited note, purporting to be issued by any association doing a banking business under the provisions of this act, knowing the same to be falsely made, forged, or counterfeited, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering, any such circulating notes, issued as aforesaid, or shall pass, utter or

Forging, &c., circulating notes, how punished.

publish, or attempt to pass, utter or publish as true, any falsely altered or spurious circulating note, issued or purporting to have been issued as aforesaid, knowing the same to be falsely altered or spurious, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept at hard labor for a period not less than five years nor more than fifteen years, and to be fined in a sum not exceeding one thousand dollars.

Engraving, &c., or having custody of plates, paper, &c., with intent, &c., how punished.

SEC. 58. *And be it further enacted*, That if any person shall make or engrave, or cause or procure to be made or engraved, or shall have in his custody or possession any engraved plate or block after the similitude of any plate from which any circulating notes issued as aforesaid shall have been printed, with intent to use such plate or block, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any blank note or notes engraved and printed after the similitude of any notes issued as aforesaid, with intent to use such blanks, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any paper adapted to the making of such notes, and similar to the paper upon which any such notes shall have been issued, with intent to use such paper, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, every such person, being thereof convicted by due courts of law, shall be sentenced to be imprisoned and kept to hard labor for a term not less than five nor more than fifteen years, and fined in a sum not exceeding one thousand dollars.

Suits, &c., against associations may be brought in any federal court in the proper district.  
Annual report of comptroller.

SEC. 59. *And be it further enacted*, That suits, actions, and proceedings by and against any association under this act may be had in any circuit, district, or territorial court of the United States held within the district in which such association may be established.

Summary of associations.

SEC. 60. *And be it further enacted*, That it shall be the duty of the comptroller of the currency to report annually to Congress, at the commencement of its session—

First. A summary of the state and condition of every association from whom reports have been received the preceding year, at the several dates to which such reports refer, with an abstract of the whole amount of banking capital returned by them, of the whole amount of their debts and liabilities, the amount of circulating notes outstanding, and the total amount of means and resources, specifying the amount of specie held by them at the times of their several returns, and such other information in relation to said associations as, in his judgment, may be useful.

Second. A statement of the associations whose business has been closed during the year, with the amount of their circulation redeemed, and the amount outstanding.

List of associations closed.

Third. To suggest any amendment to the laws relative to banking by which the system may be improved, and the security of the bill-holders and depositors may be increased.

Suggestion of amendments.

Fourth. To report the names and compensation of the clerks employed by him, and the whole amount of the expenses of the banking department during the year; and such report shall be made by or before the first day of December in each year, and the usual number of copies for the use of the Senate and House, and one thousand copies for the use of the Department, shall be printed by the public printer and in readiness for distribution on the first meeting of congress.

Names, &c., of clerks, and expenses of department.

When report to be made and printed.

SEC. 61. *And be it further enacted*, That any banking association or corporation lawfully in existence as a bank of circulation on the first day of January, Anno Domini eighteen hundred and sixty-three, organized in any state, either under a special act of incorporation or a general banking law, may, at any time within — years after the passage of this act become an association under the provisions of this act; that in such case the certificate of association provided for by this act shall be signed by the directors of such banking association or corporation, and in addition to the specifications required by this act, shall specify that such directors are authorized by the owners of two thirds of the capital stock of such banking association or corporation, to make such certificate of association, and such certificate of association shall thereafter have the same effect, and the same proceedings shall be had thereon, as is provided for as to other associations organized under this act. And such association or corporation thereafter shall have the same powers and privileges, and shall be subject to the same duties, responsibilities, and rules, in all respects, as is [are] prescribed in this act for other associations organized under it, and shall be held and regarded as an association under this act.

Any lawfully existing bank may become an association under this act.

Proceedings in such case.

SEC. 62. *And be it further enacted*, That any bank or banking association, authorized by any State law to engage in the business of banking, and duly organized under such State law at the time of the passage of this act, and which shall be the holder and owner of United States bonds to the amount of fifty per centum of its capital stock, may transfer and deliver to the treasurer of the United States such bonds, or any part thereof, in the manner provided by this act; and upon making such transfer and delivery, such bank or banking association shall be entitled to receive from the comptroller of the currency, circulating notes, as herein provided, equal in

Certain existing banks owning bonds may transfer them and receive circulating notes.

amount to eighty per centum of the amount of the bonds so transferred and delivered.

Provisions in case such bank fails to redeem such circulation.

SEC. 63. *And be it further enacted*, That upon the failure of any such State bank or banking association, to redeem any of its circulating notes issued under the provisions of the preceding section, the comptroller of the currency shall, when satisfied that such default has been made, and within thirty days after notice of such default, proceed to declare the bonds transferred and delivered to the treasurer, forfeited to the United States, and the same shall thereupon be forfeited accordingly. And thereupon the circulating notes which have been issued by such bank or banking association shall be redeemed and paid at the treasury of the United States, in the same manner as other circulating notes issued under the provisions of this act are redeemed and paid.

Bonds forfeit may be cancelled or sold.

SEC. 64. *And be it further enacted*, That the bonds forfeited, as provided in the last preceding section, may be cancelled to an amount equal to the circulating notes redeemed and paid, or such bonds may be sold, under the direction of the Secretary of the Treasury, and after retaining out of the proceeds a sum sufficient to pay the whole amount of circulating notes, for the redemption of which such bonds are held, the surplus, if any remains, shall be paid to the bank, or banking association from which such bonds were received.

This act may at any time be repealed, &c.

SEC. 65. *And be it further enacted*, That Congress reserves the right, at any time, to amend, alter, or repeal this act.

APPROVED, February 25, 1863.

## Annual Report, Comptroller of Currency (Hugh McCulloch)

[November 28, 1863]

OFFICE OF THE COMPTROLLER OF THE CURRENCY,  
November 28, 1863.

In compliance with the requirements of 60th section of the act of Congress entitled an "Act to provide a national currency secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," I have the honor to submit the following report.

Up to the present time there have been organized under said act one hundred and thirty-four banks, which are located as follows:

In Maine.....	2	In District of Columbia.....	1
In New Hampshire.....	2	In Illinois.....	7
In Vermont.....	2	In Indiana.....	20
In Massachusetts.....	3	In Iowa.....	6
In Rhode Island.....	1	In Kentucky.....	1
In Connecticut.....	4	In Michigan.....	4
In New York.....	16	In Missouri.....	2
In New Jersey.....	1	In Ohio.....	38
In Pennsylvania.....	20	In Wisconsin.....	4

direction of the Secretary of the Treasury, and after retaining out of the proceeds a sum sufficient to pay the whole amount of circulating notes for the redemption of which such bonds are held, the surplus, if any remains, shall be paid to the bank or banking association from which such bonds were received. Sec. in C. D. And be it further enacted, that Congress reserves the right at any time to amend, alter, or repeal this act.

Calvin H. Hunt

Speaker of the House of Representatives  
 William Root  
 President of the Senate, *pro tempore*

Approved, February 25, 1863.

Abraham Lincoln

A statement of the condition of some of the banks, on the first of October last, accompanies this report. Most of those now organized had not at that time commenced business; hence the partial returns.

A statement of the names and compensation of the clerks employed by me, and of the expenses of the bureau up to the first of July, the commencement of the financial year, also accompanies this report.

The same section of the act makes it my duty "to suggest any amendment to the laws relative to banking by which the system may be improved, and the security of the billholders and depositors may be increased."

The national currency act, although admirable in its leading features, is not altogether symmetrical in its arrangement, nor clear, if it is even consistent in all of its provisions. I respectfully suggest, therefore, that the act be carefully revised; that those parts of it that refer to the same subject be placed in juxta-position, and that it be relieved of certain obscurities and apparent inconsistencies that render some of its provisions of difficult construction. A law of so much importance as this, which is to be interpreted by so many people, and is to be the charter of so many banking institutions, should be methodical in its arrangement, clear in language, and comprehensive and consistent in its provisions. In these respects the national currency act is somewhat defective. Sections relating to the same subject are scattered throughout the act. Words of different significance are sometimes used as if they were convertible. Many passages are ambiguous in language, if they do not contain inconsistent provisions. For example, the law requires that articles of association should be entered into, and organization certificates executed, stating for what purpose the certificates shall be made, and indicating other and different things to be provided for in the articles of association, and yet in some instances these certificates and articles seem to be referred to as if they were one and the same instrument. Section 6 makes certified copies of organization certificates legal and sufficient evidence of the existence of associations, while section 11 provides that the associations shall have succession, &c., by the name designated in their articles. The last mentioned section, which confers banking powers upon the banks, has also a provision which bankers find it difficult to interpret. After bestowing upon the banks general powers to discount bills, notes, and other evidences of debt, it authorizes the loan of money "on real and personal security, in the manner specified in the articles of association, and for the purposes authorized by the act." This is the only power conferred by this section, the exercise of which is made dependent upon the articles of association, and it has been found difficult to give a precise meaning to the language, and to form articles that should cover and secure the power intended to be conferred.

Section 13 authorizes associations to provide in their articles of association for an increase of capital, subject to the limitations of the act; but there is no limitation in the act of the capital stock of the associations, separately or in the aggregate. The same section seems to require that the Comptroller shall *certify to the banks* the amount of their increased stock, instead of giving him the power to authorize the banks to increase their capitals, and to approve of the increase, upon his being furnished with evidence that the additional capital has actually been paid in.

Section 15 provides that United States bonds to the amount of one-third of the paid-in capital of an association shall be deposited with the Treasurer, and a fair construction of the act has seemed to me to warrant the decision that the banks should not only deposit with the Treasurer, but that they should keep with him constantly, this proportion of bonds; while section 30 provides that the Comptroller may (shall) direct the return of any such bonds to the association that transferred the same, upon the surrender to him and the cancellation of a proportionable amount of its circulating notes &c., &c. This provision, construed by itself, might nullify the requirements of the 15th section, even if it did not defeat the most important object of the act.

Section 37, literally construed, might prevent the national banks from discounting on the security of the stocks of other corporations, many of which stocks are regarded by bankers as among the most desirable collaterals; while the object of the restrictions in this section undoubtedly was, merely to prevent banks from discounting upon the security of their own stocks and from engaging in stock speculations. I have decided that under section 41, three-fifths of the twenty-five per cent. of lawful money required to be kept on hand by the national banks might be kept in similar associations in the cities named, *but in no others*. The ninth article of the 45th section is supposed, however, by many to indicate that no such restriction in regard to the character of the depositary was intended.

An absolutely strict construction of another part of section 41 would seem to deny to banks in the cities named the privileges granted to those in other places, but I have thought and decided that a more liberal construction should be given to it, because it was not reasonable to suppose it to have been the intention of Congress to withhold from banks in Chicago privileges granted to banks in Buffalo, nor from our banks in Providence privileges granted to banks in Hartford, New Haven, &c., &c.

These, and others like them, may be regarded as minor defects, and such as do not materially affect the proper working of the system, but they serve to embarrass the bankers, and may cause improper decisions on the part of the Comptroller. The law would be greatly improved if it were relieved of them.

I suggest, also, that section 47 be struck out entirely. While it is true that large loans to a single individual or firm should, as a general thing, be avoided, there may be, and frequently are, exceptional cases in which such loans are both necessary and judicious. I think, therefore, that this is a matter that should be left to the discretion of the managers of the banks, and that it can be safely intrusted to them.

I suggest, also, that section 39 be so amended that the affairs of the national banks may be managed by not more than thirteen directors instead of nine, and that only two-thirds of the directors be required to be residents of the State in which the banks are respectively located. I can conceive of no valid reason why the stockholders of a national bank should be prohibited from electing more than nine directors. It is not likely that the stockholders of many banks will be inclined to do so; but some State banks have more than nine directors, and if they should be converted into national banks, and the stockholders thereof should desire to retain their present number, or if any new associations should prefer a larger number than nine, they should have the privilege of doing it.

The requirement that all the directors of a bank should be residents of the State in which it is located, may, in some instances, prevent stockholders from availing themselves of the services of men whom it may be desirable to have in the direction. Many persons carrying on business in our large cities reside in neighboring States. Should they, therefore, be disqualified from being directors of the city banks? The object for which this resolution was inserted in the act will doubtless be secured by requiring two-thirds of the board to be residents of the State in which an association is organized.

Instead of the liability of the stockholders, many of whom have little voice in the management of their banks, I would suggest that section 12 be so amended that the failure of a national bank be declared *prima facie* fraudulent, and that the officers and directors, under whose administration each insolvency shall occur, be made personally liable for the debts of the bank, and be punished criminally, unless it shall appear, upon investigation, that its affairs were honestly administered. The individual liability provision, if continued, will prevent, as it is now doing, many prudent men and men of wealth from becoming shareholders in national banks, and consequently hinder a proper and desirable distribution of their stock, and will not protect creditors to the same extent as would be done by the proposed liability of the managers.

I also suggest that section 24 be so amended that the publication by an association of its quarterly reports, where there is no newspaper in the place where the association is located, be made in the nearest paper thereto, instead of a paper published at the capital of the State.

I suggest, also, that section 39 be so amended that stockholders of banks of large capital be eligible to the direction thereof, who may be the owners of less than one-half per cent. of the capital. As the law now stands, no stockholder can be a director in a bank of \$10,000,000 of capital, without owning at least \$50,000 of its stock. Such a provision is obviously unwise. The best brains and the highest integrity might thus be excluded from the management of banks. There is another objection to this section. According to its provisions, a stockholder who owns but \$1,500 of stock can be a director of a bank with \$300,000 capital, while one must own \$2,000 of stock to be a director of a bank with \$200,000 capital.

I suggest, also, that section 31 be repealed. Aside from the consideration that a depreciation of government securities should not be contemplated by Congress, it is hardly just to the banks to compel them to furnish these securities as a pledge for their circulation, at the rate of ninety per cent. on the dollar, and then subject them to the caprices of the New York stock exchange.

The act authorizes the organization of banks with a capital of \$50,000 each, and requires the payment of only thirty per cent. thereof on the commencement of business, so that a bank may commence the business of banking with a paid in capital of only fifteen thousand dollars.

I suggest that the act be so amended that no bank shall commence business with a less capital, actually paid in, than fifty thousand dollars. To say nothing of the facilities which the law affords to the banks, for building up a fictitious capital by the use of its circulating notes, when the stock is paid up by instalments, fifteen thousand dollars is altogether too insignificant a sum, even at the commencement,

for the capital of a bank. It is very questionable whether a bank should be organized with a capital less than one hundred thousand dollars; fifty thousand to be paid in at the commencement of business, and the balance in instalments of ten per cent. every sixty days thereafter.

There is, at present, no provision for the voluntary closing of the national banks. I suggest, therefore, that a provision be inserted in the act, requiring banks that may desire to close up their affairs to give notice of their intention to do so, to the Comptroller of the currency, and such notice to the public as he may prescribe, and authorizing the banks, at any time after two years from the publication of such notice, to withdraw from the Treasurer the bonds deposited with him for the security of their circulation, upon paying into the Treasury of the United States the amount of their outstanding notes in lawful money, which notes shall thenceforth be redeemable at the treasury, and the banks respectively, and the stockholders thereof be discharged from all liability therefor.

It would thus appear that the benefits resulting from the lost circulation are to inure to the government, and not to the banks; but it will be remembered, that the notes are furnished to the banks at the expense of the government, which will probably be no more than covered by what may be lost or destroyed; especially as the banks, being at no expense therefor, will be likely to keep their circulation clean and unmutilated, by frequent exchanges of old notes for new ones.

I suggest, also, that the act be so amended that the rate of interest to be charged by the national banks be uniform in all the States; that the penalty for usury be a forfeiture of the interest, instead of a forfeiture of the debt, on which more than the legal rate is taken, and that the banks in the large commercial cities of the seaboard States be relieved in certain contingencies, from all penalties for usury, in order that they may prevent, as far as practicable, by raising the rate of interest, excessive importations of foreign merchandise and heavy exportations of the precious metals.

The expediency of making the rate of interest uniform throughout the country is manifest. The objection to national legislation upon this subject is, that the States are supposed to have the exclusive right to regulate the interest upon loans of money.

It is true that the power to regulate the rates of interest at which money shall be loaned has always been exercised (except in the case of the United States Bank) by the States, and it is also true that the laws upon this subject in the different States have been various and changeable. There are scarcely two States in the Union whose interest laws are exactly alike. Few things have been more embarrassing to the trade between the different sections of the country, and none have been more prolific of litigation and conflicting judicial decisions, than the different and frequently changing legislation of the States in fixing the value of the use of money.

Whatever opinions may have heretofore obtained upon the subject, there are now very few intelligent business men of the country, who have watched the effect upon trade and exchanges of the efforts of the States to establish by law the rates of interest, who are not agreed in the opinion, that the regulation of commerce between the States cannot be perfectly accomplished without the establishment of a uniform rate

of interest throughout the Union. The commerce of the country ignores State boundaries, and Congress has the exclusive right of regulating it. Congress ought, therefore, to have the incidental power of preventing the States from embarrassing commercial intercourse between the people of the States, which is done to no little extent, by their fixing different rates of interest upon money. If such power exists in Congress it ought to be exercised. In my judgment, it is demanded both by considerations of public policy and public convenience.

But whatever opinions may be entertained in regard to the general authority of Congress to regulate the rate of interest upon loans of money, there can be but little question of its power to regulate the rate which shall be charged by the banks through which a national circulation is to be issued, and which are organized under a national law. Unless it possesses this power, *the national government must divide with the States* the control of the affairs of banks created to carry out its rightful, acknowledged, and necessary functions.

As the law now stands, banks in New York and Michigan can charge seven per cent. on their loans, while those of New England and most other States are restricted to six; and State laws can be so framed as to attract capital to be invested in national banks too largely into particular States, or to prevent such an investment of it in such States altogether.

It is recommended, therefore, that the rate of interest to be charged by national banks be made uniform throughout the States, and that this rate be seven per cent. per annum.

The authority of Congress to so change the act has been settled, I think, by the Supreme Court. The Bank of the United States was authorized by its charter to loan money at the rate of six per cent. per annum. Suppose, that in a State in which a branch of that bank was located the legal rate of interest had been five per cent., would a contract made with the branch for six per cent. have been void as contravening a State law? The right to assess and collect taxes for the support of the State is a right indispensable to the existence of the State government. Nevertheless, the State of Maryland was prohibited from taxing the stock of the branch of the United States Bank in the city of Baltimore, and on the ground that States had no power by taxation or otherwise to impede, or in any manner control, laws enacted by Congress in the exercise of its legitimate powers. If, instead of attempting to tax the Baltimore branch bank, the State of Maryland had passed a law reducing the rate of interest to be charged by all corporations within its limits, not authorized by the State, to four per cent., (as it would have had an undoubted right to do if the power to regulate the rate of interest upon moneys loaned belongs absolutely and exclusively to the States,) would not the Supreme Court have declared such a law, in its application to a branch of the United States Bank, unauthorized and void? Is the power to regulate the rate of interest upon money any more clearly a power reserved by the States than the power to tax? If Congress had the constitutional authority to pass the national currency act, it has unquestionably the incidental right to regulate, irrespective of State legislation, the rate of interest which shall be charged by the banks organized under it, for, without this right, State laws might so control or impede the business of the banks as to render the act itself practically inoperative.

Few questions have been more frequently and thoroughly discussed, or in relation to which there has been a greater difference of opinion among intelligent men, than the question of usury. Much of this difference of opinion has arisen from the fact that men have viewed it from different stand-points. The opinion of one who has lived in Germany or England, where capital is abundant, and no usury laws have existed for years, will, of course, be very different from that of one who has lived in Minnesota or California, and noticed the evils which have resulted from the high rates which money has commanded in those States. Notwithstanding the fact that money is the standard of value, it is not free from the operations of the great regulating law of supply and demand. Where money is abundant it is cheap, where scarce it is dear; and no legislation has been able to control the effect of this general law. There is no necessity for usury laws in most of the States at the present time, because money is abundant and lenders are plenty, and borrowers are scarce. When the war is over, and business goes back again to its accustomed channels, and the disbursements of the government are largely curtailed, borrowers will be plenty and lenders scarce. Because usury laws are not needed now, it does not follow that they will not be required at no very distant day, nor does it follow, because legislation has not been able absolutely to regulate the value of the use of money, and because all usury laws are frequently evaded, that, therefore, these laws are inefficacious and unwise. Usury laws, no matter how much they have been evaded, have had the effect of preventing, to some extent, excessive charges on loans of money. There is scarcely a banker or money-lender in the country who has not often been restrained in his charges, for the money he has loaned, by the usury laws which have been in force. In all countries, in which there is not a superabundance of capital, usury laws have been found necessary to protect those whose interest it is to borrow money, against excessive charges for it by those who have it to lend, and the experience of the nations is not to be disregarded. Money, whether it be in the form of the precious metals or of bank notes, is created by law. Gold and silver are not money until coined and made such by the authority of the government. It is not like merchandise or other personal property, the result of man's industry, but a creation of the government, and government, which fixes the value that shall be placed upon it, has the right to say, and it is the duty to say, what shall be charged for the use of it. Of course solvent bank notes, whether issued by national or State authority, depend for their value as money upon the value of the coin of the United States. The only question, then, which it is necessary to consider in this connexion is, what penalty shall be attached to violations of usury laws. On this point, I am of the opinion that while the penalty should be such as will protect the borrower from oppression, it should not be of such a character as to tempt too strongly his honor, or to compel both the lender and borrower to resort to shifts for its evasion, which make money dearer to the latter than it otherwise would be. The laws of those States that make void all usurious contracts, even in the hands of innocent parties, and punish usury as a crime, are impolitic and unwise; those laws that make valid, contracts for any rates of interest which may be agreed upon are scarcely less so. I think it will be found that those laws which make the penalty for usury the forfeiture of

interest, leaving the lender the right to collect only the principal of the loan, are more equitable in their operations, and more effective in inducing fair dealing between man and man, than the more stringent laws of some States and the less stringent ones of others. I feel it to be my duty, therefore, to recommend that the 46th section of the national currency act be further amended, so that the penalty for taking or reserving by the national banks of a greater rate of interest than seven per cent. be a forfeiture of the interest, instead of the forfeiture of the debt on which more than the legal rate shall have been taken or reserved. And inasmuch as the history of all commercial nations has shown it to be occasionally necessary, for the regulation of trade between them and other nations, that the rate of interest should be under the control of an authority less arbitrary than statutes, I further recommend that the Secretary of the Treasury, or a commission to be created by Congress, be authorized temporarily to relieve the national banks in the cities of Philadelphia, New York, Boston, &c., from all penalties for usury, whenever it shall be thought that the public interests will be promoted thereby.

The judicious use of the power possessed by the Bank of England of checking, by an advance of the rate of interest, excessive speculation, and the creation of a foreign debt, to be liquidated by shipments of coin, has frequently prevented financial crises in Great Britain. The same power, prudently and resolutely wielded by the banks of New York as a unit, would, in years past, have saved millions to the United States. It may be many years before the national banks will possess the power now held by the State banks in that city, but they may have it in due time; and when this is the fact, no statutory restrictions should prevent them from using it for the benefit of the country.

If it should be thought inadvisable, as I trust will not be the case, to make the suggested amendments in regard to interest and usury, I would, in that event, recommend, as the national banks are to be subject to State laws in regard to the interest that shall be charged upon discounts, that they be also subject to the penalties for usury which the State laws may impose. If the exclusive right to regulate the rate of interest is to be left to the States, they should also fix the penalty for usury. The power to regulate, by law, the charge that shall be made for the use of money, and the power to punish for the violation of the law, should be in the same hands. Under the present provisions of the act, Congress must adopt State legislation, whatever it may be, upon the subject of interest, whether it be three per cent. or twenty, while it inflicts a penalty for a violation of State laws which the State laws do not themselves impose.

I suggest also that section 45 be repealed, and that instead thereof a section be inserted authorizing the banks to make semi-annual dividends of profits, but requiring them, before dividends are declared, to carry to the "surplus" one-sixth part of their net profits, until their surplus funds shall amount to thirty per cent. of their respective capitals. The advantages of the creation, by a bank, of a large surplus fund to cover losses that no prudence can prevent, and, as a preparation for commercial crises, are so well understood as to need no illustration. The rest of this section refers to semi-annual reports. By section 24 the banks are required to make full quarterly reports of the condition of

their affairs, in view of which the semi-annual report would seem to be unnecessary.

I recommend also that sections 62, 63, and 64 be repealed.

The national currency system contemplates the organization of national banks, which, by becoming its financial agents, may aid the government in the safekeeping and transmission of its revenues, and the transaction of its business, and through the instrumentality of which a safe and uniform circulation may be furnished to the people.

The sixty-second section makes it the duty of the Comptroller to furnish the national currency to any banks or banking institutions authorized by a State law to engage in the business of banking, upon their delivering to the Treasurer the required securities. No matter what may be the restrictions of the State law upon the issues of State banks, or the character of the banks, if they *claim* to be the owners and are the holders of United States bonds to the amount of fifty per cent. of their capitals, they can deposit *any part* of these bonds, and obtain circulation therefor. It is difficult to conceive of a measure better calculated to bring the national currency system into conflict with the States, and into disrepute with the people, than this. Under it we should have banks receiving government notes without being in any measure subject to the supervision of the government—deriving all their corporate powers from the States, and yet issuing notes not authorized by State laws. We should have banks that may have borrowed the government securities attempting to bolster up a doubtful reputation by the credit which an issue of national circulation would give them, and casting reproach upon the system by their inability to redeem it.

If States have the right to create banks of issue, they must have the sole right to control them. Congress can neither increase nor diminish the powers of institutions brought into existence by State laws if their powers do not encroach upon the authority of the general government.

But if enabling acts should be passed by State legislatures, authorizing State banks to avail themselves of the privileges of the 62d section, the objection to the delivery of notes to State banks would be only partially removed. The government should have no connexion with institutions not created by its own laws. If the two systems of national and State banking are to co-exist, let it be as separate and independent systems. Let there be no non-descripts which are part State and part national, issuing two kinds of circulation, created by different authorities and based upon different securities.

In every aspect in which I have been able to view this part of the act, I have found it to be objectionable. It is an encroachment upon State authority. It contemplates the mixing of two systems that ought to be independent. It would destroy the symmetry of the national currency and afford no advantages to *solvent* State banks, which they could not obtain, to a greater extent, by a transfer of their capitals into national organizations.

I suggest also that it be made the duty of the national banks, if required by the Secretary of the Treasury, to act as financial agents of the government, and to receive on deposit moneys for account of the United States, or any disbursing agent thereof, and to give satis-

factory security for the faithful performance of the duties required of them.

I further suggest that the national banks shall be required to prevent their notes from being depreciated in the commercial cities of the country, and that the national banks in those cities be required to keep their reserve of lawful money in their own vaults. The national currency—secured as it is to be by the entire resources of the government, receivable for all public dues except duties upon imports, and for all obligations of the government, except the interest on the public debt, and in case of the failure of the banks to be promptly redeemed at the treasury of the United States, can never be much depreciated, no matter what may be the location of the banks by which it is issued. If, in addition to all this, the national currency is, in the commercial cities of the Union, kept absolutely and always at par, it will attain a perfection never yet reached by a bank note circulation. That this may be done without prejudice to the banks, but rather to their advantage, I have not a particle of doubt.

The redemption of their notes at the commercial cities by the interior banks would tend to increase largely the deposits of the banks in these cities; hence the necessity that the latter should keep constantly on hand a large reserve—a reserve which might and perhaps ought to be increased beyond the present requirements of the act.

The rapidity with which national banks are being organized in the western States, and the high character of most of the stockholders thereof, indicate the popularity of the system in that part of the Union. In the eastern States it will be observed that comparatively few banks have been organized; but even in these States the opinion is rapidly gaining ground that the national system will there, at no remote period, supersede the State system of banking. It is desirable that this should be done by a transfer of capital from the latter to the former without any serious interruption of business. Some of the older States have capital enough already invested in banking, and the bank note circulation of these States should be curtailed rather than increased. I know that bank notes, notwithstanding the preference that is given to legal tenders by the people, are in great demand, and that currency is reported to be scarce throughout the country; but no one can be ignorant of the fact that this scarcity is in a measure attributable to the high prices which bank issues have contributed to bring about. It is frequently the case that money is apparently the most plenty when there is the least of it in circulation, and the scarcest when it has attained the highest point, before a financial crisis. An increase of the circulating medium inflates prices. High prices require an increased circulation, and so they act and react upon each other, and there appears to be no redundancy of currency, no matter how vast the volume may be, until a collapse takes a place, and what was supposed to be real prosperity is shown to be without a substantial foundation.

The national currency system was not designed to add to the evils of excessive paper issues, but rather to check them by the substitution of a circulation protected by adequate securities, and restricted in amount by being based upon actual values, for the too frequently

unsecured and unrestricted issues of the States. It was certainly not created to increase the banking capital of the seaboard States in which there is enough of such capital already, but to supersede the systems of banking in those States by attracting to it the capital of existing banks. It promises to do this by a transfer of capital from one to the other, and without any collision between them. Where there are no enabling acts of State legislatures, the conversion takes place by the organization of national banks by the stockholders of State banks, and the transfer to the former of the assets and capital of the latter. This has already been done in several instances without even an interruption of business, and certainly without injury to the stockholders. The idea that the national banks cannot supersede the State banks without breaking them down and ruining their stockholders is an erroneous one, and can only be honestly entertained by those who have not carefully considered the subject or noticed the process of conversion, which has changed some banks in the west, and is changing others in the east, from one system to the other. No war is being waged, or is intended to be waged, by the national system upon State institutions. So far from it, it opens the way by which the interests of stockholders can be protected, at the same time that the character of their organizations is changed.

The war in which the country is engaged, although a great calamity in itself, will not be an unmixed evil financially even, if one result of it is the establishment of a system of banking by which, without an interference with the rights of the States, and without detriment to their solvent institutions, a bank note circulation shall be furnished to the people, as solvent as the nation itself, and uniform in value, as a substitute for that now supplied by the States, which is neither uniform in value nor, as a general thing, properly secured. The amount of losses which the people have sustained by insolvent State banks, and by the high rate of exchanges—the result of a depreciated currency—can hardly be estimated. That some of the new States have prospered, notwithstanding the vicious and ruinous banking systems with which they have been scourged, is evidence of the greatness of their resources and the energy of their people. The idea has at last become quite general among the people that the whole system of State banking, as far as circulation is regarded, is unfitted for a commercial country like ours. The United States is a nation as well as a union of States. Its vast railroad system extends from Maine to Kansas, and will soon be extended to the Pacific ocean. Its immense trade is not circumscribed by State lines, nor subject to State laws. Its internal commerce is national, and so should be its currency. At present some fifteen hundred State banks furnish the people with a bank-note circulation. This circulation is not confined to the States by which it is authorized, but is carried by trade or is forced by the banks all over the Union. People receive it and pay it out, scarcely knowing from whence it comes or in what manner it is secured. Banks have been organized in some States with a view to lending their circulation to the people of others. Probably not one quarter of the circulation of the New England banks is needed or used in New Eng-

land—the balance being practically loaned to other States. The national currency system is intended to change this state of things, not by a war upon the State banks, but by providing a means by which the circulation which is intended for national use shall be based upon national securities through associations organized under a national law. The United States notes, the issue of which was rendered necessary by the exigencies of the government, and which it is presumed will be withdrawn whenever this exigency ceases, have taught the people the superiority of a national circulation over that to which they have been accustomed. In many sections the produce of the country cannot be purchased with bank notes, and people find it difficult travelling from State to State without legal tenders. Everywhere the opinion is prevailing that the circulation of local banks has about had its day, and must yield to the demands of the people for a circulation of which the government is the guarantor.

By the national currency act the principle is for the first time recognized and established, that the redemption of bank notes should be guaranteed by the government authorizing their issue. The national currency will be as solvent as the nation of which it represents the unity. The country has at last secured to it a permanent paper circulating medium of a uniform value, without the aid of a national bank. This national system confers no monopoly of banking, but opens its advantages equally to all. It interferes with no State rights. It meets both the necessities of the government and the wants of the people. It needs modifications, and may require others than those which are suggested in this report; but it is right in principle, and of its success there can, I think, be no reasonable doubt.

The work of preparing the national circulation has been attended with unlooked for delays, but it is confidently expected, after the banks already organized are supplied, which will probably be accomplished within the next two months, that all associations will be furnished with notes within thirty days from the time bonds are deposited with the Treasurer. Contracts have been made with the Continental and American Bank Note Companies for engraving the plates for the five, ten, twenty, fifty, and one hundred dollar notes, and the printing of the fives and tens has been commenced. The delivery will soon follow, and the banks, and through the banks the people, will soon be put in possession of the much-desired currency.

With the suggested amendments of the act, it is not supposed that the national banking system will be an absolutely perfect one, but it is supposed that it will afford to the people a better bank note circulation than any heretofore devised. There may be under this law imprudent banking, and perhaps banking on fictitious capital, which no law can absolutely prevent. It should, however, be the aim of those who have the supervision of the system to guard it by every means in their power against such perversions. Men without capital, and adventurous speculators, should have no connexion with banking institutions. If such men do obtain control of national banks, the restrictions of the law should be so enforced as to render that control

a temporary one. Encouragement should be given to honorable, straightforward, legitimate banking, and to no other.

But whatever mismanagement of the affairs of any particular national bank may exist, the holders of its notes will not be prejudiced by it. If the banks fail, and the bonds of the government are depressed in the market, the notes of the national banks must still be redeemed in full at the treasury of the United States. The holder has not only the public securities, but the faith of the nation pledged for their redemption.

If, in addition to this, the national currency, when distributed among the people, shall tend to give steadiness to trade by preventing bank note panics, and to facilitate a return to specie payments, and shall aid in regulating the exchanges of the country, at the same time that it meets the necessities of the government in the collection of its internal revenues, and binds the people by the strong ties of pecuniary interest to the government, it will prove that the war, calamitous as it may be, is not without its compensations, and a national debt is not without its advantages.

HUGH McCULLOCH, *Comptroller.*

HON. S. P. CHASE,  
*Secretary of the Treasury.*

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### Third Annual Message—Abraham Lincoln

Thirty-Eighth Congress, 1st Session

DECEMBER 8, 1863

[Source: Senate Journal, 38th Cong., 1st Sess., p. 11, communicated December 8.]

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The operations of the treasury during the last year have been successfully conducted. The enactment by Congress of a national banking law has proved a valuable support of the public credit; and the general legislation in relation to loans has fully answered the expectations of its favorers. Some amendments may be required to perfect existing laws, but no change in their principles or general scope is believed to be needed.

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### Annual Report, Secretary of Treasury (Salmon P. Chase)

[Thirty-Eighth Congress, 1st Session, December 10, 1863, Pages 19-21]

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The Secretary has heretofore expressed the opinion that whatever may be the true degree in which the currency of the country is affected by a bank-note circulation, issued without national sanction and by corporations independent of national authority, and not receivable for

national dues, it cannot be questioned that in some similar degree the negotiation of national loans must be prejudiced and their value to the national finances diminished. This opinion is confirmed by observation and experience.

Impelled, therefore, by a profound sense of the present necessity of a national currency to the successful prosecution of the war against rebellion, and of its utility at all times in protecting labor, cheapening exchanges, facilitating travel, and increasing the safety of all business transactions; and at the same time unwilling to urge even salutary and necessary reforms in such a way as needlessly to disturb existing conditions or impair the value of existing investments of capital, the Secretary recommended, in two successive reports, the authorization of national banking associations, to which the capital of the corporations now issuing notes for circulation might be transferred, with advantage to the parties in interest as well as to the general public.

The sanction of Congress was given to these views at the last session; and the simple assurance thus given that, henceforth, the country is to have a national currency secured by a pledge of national bonds, and the belief that this currency will at no distant day take the place of the heterogeneous corporate currency which has hitherto filled the channels of circulation, at once inspired faith in the securities of the government, and more than any other one cause enabled the Secretary to provide for the prompt payment of the soldiers and the public creditors.

If the policy thus indicated shall be fairly and judiciously pursued, and proper measures adopted to induce the conversion, at the earliest practicable period, of the bank corporations of the States into national banking associations, and of the corporate circulation into national currency, the Secretary believes, and, as he thinks, not without good grounds, that all the money needed for prompt payment of troops, and for the most vigorous prosecution of the war, can be obtained by loans on reasonable terms; while all interest on debt, and all ordinary expenditures, and a considerable part also of the extraordinary expenditures caused by this war, will be met by the ordinary resources. Nor does he doubt that, through wise legislation, sustained by intelligent popular will, and supported by prudence and energy in civil and military administration, national currency can be so approximated in recognized value to coin, that a resumption of payments in specie can be brought about much sooner than even sanguine persons now permit themselves to hope.

The Secretary has already referred in general terms to the reports of the heads of the various bureaus and branches of administration in his department. A peculiar interest is felt at this time in their operations, and especially in the operation of those most recently brought into existence.

The Comptroller of the Currency reports the organization under the national banking act, prior to the 29th of November, of one hundred and thirty-four associations; all which, upon the suggestion of the Secretary, have adopted the name of National Banks, distinguished

by order of organization and by locality. These Banking Associations have been formed in seventeen States and the District of Columbia, and have an aggregate capital of \$16,081,200. The great care and labor required for the preparation of suitable notes for the new national currency has delayed its issue beyond expectation; but the printing is now begun, and the several associations will be supplied with the amounts to which they are respectively entitled within a few weeks. Besides the associations reported as actually organized, there are many others in process of organization. There is hardly a State not controlled by the rebellion, and hardly a considerable city, in which a national banking association has not been organized, or is not being organized. Even New Orleans is not an exception to this statement.

Thus the great work of introducing a permanent national currency has been entered upon in a spirit and with an energy which promise perfect success. The Secretary thinks he risks nothing in saying that within the present year the benefits of the system will have so approved themselves to the sense and patriotism of the people, that it will be beyond the reach of successful assault.

The Comptroller has indicated some amendments to the law which the Secretary concurs with him in regarding as important to its success. As among the most essential of these, the Secretary asks the special attention of Congress to the proposition for a uniform rate of interest, and the repeal of the section which connects the issues of national currency in any degree with State banks. The Secretary also recommends, as likely to be useful, a provision to be made by law for the deposit with national banks, and also with the Treasurer and Assistant Treasurers, at such rates of interest and for such periods of time as the Secretary may prescribe, of moneys paid into or invested under the orders of judicial courts. It is not impossible that in this way many millions would be placed in the treasury at moderate rates of interest.

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Monthly returns are now required of many of the national banking associations, and should be required of all; and from them, as well as from the banks not organized under national legislation, should be required a fair contribution to the general burdens of the people. The Secretary refers to Congress the question, whether the duty on national currency and the deposits of national banking associations shall correspond with the duties on other circulation and deposits. He thinks that for the present, at least, some discrimination in favor of the national associations may be properly admitted in consideration of the indispensable importance of a national currency, not adapted only, like United States notes, to temporary emergencies, but permanent in its very nature, and adequate to all demands of business, and capable, at no distant period, of being made equal to and convertible into coin, and therefore its real representative and equivalent.

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## Act of June 3, 1864 (The National Bank Act)

[13 Statutes at Large 99, Thirty-Eighth Congress, Chapter 106, 1st Session, Approved June 3, 1864, by Abraham Lincoln]

AN ACT TO PROVIDE A NATIONAL CURRENCY, SECURED BY A PLEDGE OF UNITED STATES BONDS, AND TO PROVIDE FOR THE CIRCULATION AND REDEMPTION THEREOF

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That there shall be established in the treasury department a separate bureau, which shall be charged with the execution of this and all other laws that may be passed by congress respecting the issue and regulation of a national currency secured by United States bonds. The chief officer of the said bureau shall be denominated the comptroller of the currency, and shall be under the general direction of the Secretary of the Treasury. He shall be appointed by the President, on the recommendation of the Secretary of the Treasury, by and with the advice and consent of the Senate, and shall hold his office for the term of five years unless sooner removed by the President, upon reasons to be communicated by him to the Senate; he shall receive an annual salary of five thousand dollars; he shall have a competent deputy, appointed by the secretary, whose salary shall be two thousand five hundred dollars, and who shall possess the power and perform the duties attached by law to the office of comptroller during a vacancy in such office and during his absence or inability; he shall employ, from time to time, the necessary clerks to discharge such duties as he shall direct, which clerks shall be appointed and classified by the Secretary of the Treasury in the manner now provided by law. Within fifteen days from the time of notice of his appointment the comptroller shall take and subscribe the oath of office prescribed by the constitution and laws of the United States; and he shall give to the United States a bond in the penalty of one hundred thousand dollars, with not less than two responsible sureties, to be approved by the Secretary of the Treasury, conditioned for the faithful discharge of the duties of his office. The deputy-comptroller so appointed shall also take the oath of office prescribed by the constitution and laws of the United States, and shall give a like bond in the penalty of fifty thousand dollars. The comptroller and deputy-comptroller shall not, either directly or indirectly, be interested in any association issuing national currency under the provisions of this act.

**SEC. 2.** *And be it further enacted,* That the comptroller of the currency, with the approval of the Secretary of the Treasury, shall devise a seal, with suitable inscriptions, for his office, a description of which, with a certificate of

Currency bureau established.

Comptroller of the currency.

Appointment.

Term of office.

Salary.  
Deputy comptroller.

Clerks.

Comptroller to take oath within what time.

Bond.

Oath and bond of deputy comptroller.

Not to be interested in any banking asso-

Seal of currency bureau, and where to be kept.

approval by the Secretary of the Treasury, shall be filed in the office of the Secretary of State with an impression thereof, which shall thereupon become the seal of office of the comptroller of the currency, and the same may be renewed when necessary. Every certificate, assignment, and conveyance executed by the comptroller, in pursuance of any authority conferred on him by law, and sealed with his seal of office, shall be received in evidence in all places and courts whatsoever; and all copies of papers in the office of the comptroller, certified by him and authenticated by the said seal, shall in all cases be evidence equally and in like manner as the original. An impression of such seal directly on the paper shall be as valid as if made on wax or wafer.

Certain papers under such seal to be evidence.

Impression may be upon paper.

Rooms for currency bureau.

Fire-proof vaults.

Furniture, &c.

Term "United States Bonds" to include what.

Banking associations, how may be formed.

Organization certificate to specify.

name.

place of business,

SEC. 3. *And be it further enacted*, That there shall be assigned to the comptroller of the currency by the Secretary of the Treasury suitable rooms in the treasury building for conducting the business of the currency bureau, in which shall be safe and secure fire-proof vaults, in which it shall be the duty of the comptroller to deposit and safely keep all the plates not necessarily in the possession of engravers or printers, and other valuable things belonging to his department; and the comptroller shall from time to time furnish the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of the said business.

SEC. 4. *And be it further enacted*, That the term "United States Bonds," as used in this act, shall be construed to mean all registered bonds now issued, or that may hereafter be issued, on the faith of the United States by the Secretary of the Treasury in pursuance of law.

SEC. 5. *And be it further enacted*, That associations for carrying on the business of banking may be formed by any number of persons, not less in any case than five, who 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 the provisions of this act, which the association may see fit to adopt for the regulation of the business of the association and the conduct of its affairs, which said articles shall be signed by the persons uniting to form the association, and a copy of them forwarded to the comptroller of the currency, to be filed and preserved in his office.

SEC. 6. *And be it further enacted*, That the persons uniting to from such an association shall, under their hands, make an organization certificate, which shall specify—

First. The name assumed by such association, which name shall be subject to the approval of the comptroller.

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

capital and shares,

Third. The amount of its capital stock, and the number of shares into which the same shall be divided.

names, &c., of shareholders.

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

purpose of certificate.

Fifth. A declaration that said certificate is made to enable such persons to avail themselves of the advantages of this act.

Certificate to be acknowledged.

The said certificate shall be acknowledged before a judge of some court of record or a notary public, and such certificate, with the acknowledgment thereof authenticated by the seal of such court or notary, shall be transmitted to the comptroller of the currency, who shall record and carefully preserve the same in his office. Copies of such certificate, duly certified by the comptroller, and authenticated by his seal of office, shall be legal and sufficient evidence in all courts and places within the United States, or the jurisdiction of the government thereof, of the existence of such association, and of every other matter or thing which could be proved by the production of the original certificate.

Copies under seal to be evidence.

Amount of capital to be not less than, &c.

SEC. 7. *And be it further enacted*, That no association shall be organized under this act, with a less capital than one hundred thousand dollars, nor in a city whose population exceeds fifty thousand persons, with a less capital than two hundred thousand dollars: *Provided*, 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.

Proviso.

Associations when to be corporations and when to commence business.

SEC. 8. *And be it further enacted*, That every association formed pursuant to the provisions of this act shall, from the date of the execution of its organization certificate, be a body corporate, but shall transact no business except such as may be incidental to its organization and necessarily preliminary, until authorized by the comptroller of the currency to commence the business of banking. Such association shall have power to adopt a corporate seal, and shall have succession by the name designated in its organization certificate, for the period of twenty years from its organization, unless 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 the franchise shall be forfeited by a violation of this act; by such name it may make contracts, sue and be sued, complain and defend, in any court of law and equity as fully as natural persons; it may elect or appoint directors, and by its board of directors appoint a president, vice-president, cashier, and other officers, define their duties, require bonds of them and fix the penalty thereof, dismiss said officers or any of them at pleasure, and appoint others to fill their places, and exercise under this act all such incidental powers as

Seal.

May continue twenty years, unless, &c.

General powers.

Directors and officers.

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; by obtaining, issuing, and circulating notes according to the provisions of this act; and its board of directors shall also have power to define and regulate by by-laws, not inconsistent with the provisions of this act, 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 all the privileges granted by this act to associations organized under it shall be exercised and enjoyed; and its usual business shall be transacted at an office or banking house located in the place specified in its organization certificate.

By-laws.

SEC. 9. *And be it further enacted*, That the affairs of every association shall be managed by not less than five directors, one of whom shall be the president. Every director shall, during his whole term of service, be a citizen of the United States; and at least three fourths of the directors shall have resided in the state, territory, or district in which such association is located one year next preceding their election as directors, and be residents of the same during their continuance in office. Each director shall own, in his own right, at least ten shares of the capital stock of the association of which he is a director. 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 act, and that he is the bona fide owner, in his own right, of the number of shares of stock required by this act, 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; which oath, subscribed by himself, and certified by the officer before whom it is taken, shall be immediately transmitted to the comptroller of the currency, and by him filed and preserved in his office

Directors;  
qualifications;  
one to be president.

Oath.

SEC. 10. *And be it further enacted*, That the directors of any association first elected or appointed shall hold their places until their successors shall be elected and qualified. All subsequent elections shall be held annually on such day in the month of January as may be specified in the articles of association; and the directors so elected shall hold their places for one year, and until their successors are elected and qualified. But any director ceasing to be the owner of the requisite amount of stock, or having in any other manner become disqualified, shall thereby vacate his place. Any vacancy in the board

Term of office  
of directors.

Elections.

Vacancies,  
how filled.

shall be filled by appointment by the remaining directors, and any director so appointed shall hold his place until the next election. If from any cause an election of directors shall not be 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 the election should not be held on the day fixed, the day for the election shall be designated by the board of directors in their by-laws, or otherwise: *Provided*, That if the directors fail to fix the day, as aforesaid, shareholders representing two thirds of the shares may.

Voting and proxies.

SEC. 11. *And be it further enacted*, That 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.

Capital stock to be divided into shares.

SEC. 12. *And be it further enacted*, That the capital stock of any association formed under this act 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; and 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 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. The shareholders of each association formed under the provisions of this act, and of each existing bank or banking association that may accept the provisions of this act, 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

Transfer.

Rights of existing creditors not to be impaired.

Individual liability.

surplus provided for in this act; and if at any time there shall be a deficiency in said surplus of twenty per centum, the said banking association shall not pay any dividends to its shareholders until such deficiency shall be made good; and in case of such deficiency, the comptroller of the currency may compel said banking association to close its business and wind up its affairs under the provisions of this act. And the comptroller shall have authority to withhold from an association his certificate authorizing the commencement of business, whenever he shall have reason to suppose that the shareholders thereof have formed the same for any other than the legitimate objects contemplated by this act.

When comptroller may withhold certificate.

SEC. 13. *And be it further enacted*, That it shall be lawful for any association formed under this act, by its articles of association, to provide for an increase of its capital from time to time, as may be deemed expedient, subject to the limitations of this act: *Provided*, That the maximum of such increase 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 shall be paid in, and notice thereof shall have 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. And every association shall have power, by the vote of shareholders owning two thirds of its capital stock, to reduce the capital of such association to any sum not below the amount required by this act, in the formation of associations: *Provided*, That by no such reduction shall its capital be brought below the amount required by this act 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.

Increase of capital stock.

Maximum.

Minimum.

SEC. 14. *And be it further enacted*, That 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 instalments of at least ten per centum each on the amount of the capital as frequently as one instalment at the end of each succeeding month from the time it shall be authorized by the comptroller to commence business; and the payment of each instalment shall be certified to the comptroller, under oath, by the president or cashier of the association.

Amount to be paid in before commencing business.

Remainder, when to be paid.

SEC. 15. *And be it further enacted*, That if any shareholder, or his assignee, shall fail to pay any instalment on the stock when the same is required by the foregoing section to be paid, the directors of such association may sell the stock of such delinquent shareholder at public

Proceedings, if shareholder fails to pay instalments.

Stock of delinquent shareholders to be sold.

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, and 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, and 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 cancelled and deducted from the capital stock of the association; and if such cancellation and reduction shall reduce the capital of the association below the minimum of capital required by this act, the capital stock shall, within thirty days from the date of such cancellation, be increased to the requirements of the act; in default of which a receiver may be appointed to close up the business of the association according to the provisions of the fiftieth section of this act.

United States registered bonds to be deposited with treasurer to an amount equal to one third of the capital stock.

SEC. 16. *And be it further enacted*, That every association, after having complied with the provisions of this act, preliminary to the commencement of banking business under its provisions, and before it shall be authorized to commence business, 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 nor less than one third of the capital stock paid in, which bonds shall be deposited with the treasurer of the United States and by him safely kept in his office until the same shall be otherwise disposed of, in pursuance of the provisions of this act; and the Secretary of the Treasury is hereby authorized to receive 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; and the deposit of bonds shall be, by every association, 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: *Provided*, That nothing in this section shall prevent an association that may desire to reduce its capital or to close up its business and dissolve its organization from taking up its bonds upon returning to the comptroller its circulating notes in the proportion hereinafter named in this act, nor from taking up any excess of bonds beyond one third of its capital stock and upon which no circulating notes have been delivered.

Deposit to be increased;

may be diminished.

SEC. 17. *And be it further enacted*, That whenever a certificate shall have been transmitted to the comptroller of the currency, as provided in this act, and the association transmitting the same shall notify the comptroller that at least fifty per centum of its capital stock has been paid in as aforesaid, and that such association has complied with all the provisions of this act as required to be complied with before such 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 the directors of such association, and the amount of the capital stock of which each is the bona fide owner, and generally whether such association has complied with all the requirements of this act 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 such association, a statement of all the facts necessary to enable the comptroller to determine whether such association is lawfully entitled to commence the business of banking under this act.

Comptroller to examine and determine if association can commence business.

SEC. 18. *And be it further enacted*, That 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 shall appear that such association is lawfully entitled to commence the business of banking, the comptroller shall give to such association a certificate, under his hand and official seal, that such association has complied with all the provisions of this act required to be complied with before being entitled to commence the business of banking under it, and that such association is authorized to commence said business accordingly; and it shall be the duty of the association to cause said certificate to be published in some newspaper published in the city or county where the association is located for at least sixty days next after the issuing thereof: *Provided*, That if no newspaper is published in such city or county the certificate shall be published in a newspaper published nearest thereto.

When association is found entitled to commence business, comptroller to give certificate.

Certificate to be published.

SEC. 19. *And be it further enacted*, That all transfers of United States bonds which shall be made by any association under the provisions of this act 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 therefor to be given to said association, or by the comptroller of the currency, or by a clerk appointed by him for that purpose, stating that it is held in trust for the association on whose behalf such transfer is made, and as security for

Transfers of bonds by association, to be made to the treasurer in trust.

How executed.

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 bonds by the treasurer shall be deemed valid or of binding force and effect unless countersigned by the comptroller of the currency. It shall be the duty of the comptroller of the currency to keep in his office a book in which shall be entered the name of every association from whose accounts such transfer of bonds is made by the treasurer, and the name of the party to whom such transfer is made; and the par value of the bonds so transferred shall be entered therein; and it shall be the duty of the comptroller, immediately upon countersigning and entering the same, to advise by mail the association from whose account such transfer was made of the kind and numerical designation of the bonds and the amount thereof so transferred.

Comptroller to keep transfer book, &c.

Transfers to be countersigned and entered.

Books to be accessible.

Associations, after transfer, may receive circulating notes.

Limit of amount.

Entire circulation not to exceed \$300,000,000.

Comptroller to prepare the notes.

SEC. 20. *And be it further enacted*, That it shall be the duty of the comptroller of the currency to countersign and enter in the book, in the manner aforesaid, every transfer or assignment of any bonds held by the treasurer presented for his signature; and the comptroller shall have at all times during office hours access to the books of the treasurer, for the purpose of ascertaining the correctness of the transfer or assignment presented to him to countersign; and the treasurer shall have the like access to the book above mentioned, kept by the comptroller, 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.

SEC. 21. *And be it further enacted*, That upon the transfer and delivery of bonds to the treasurer, as provided in the foregoing section, 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 herein-after 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 said bonds at the par value thereof, if bearing interest at a rate not less than five per centum per annum; and at no time shall the total amount of such notes, issued to any such association, exceed the amount at such time actually paid in of its capital stock.

SEC. 22. *And be it further enacted*, That the entire amount of notes for circulation to be issued under this act shall not exceed three hundred millions of dollars. In order to furnish suitable notes for circulation, the comptroller of the currency is hereby authorized and required, under the direction of the Secretary of the Treasury, to cause plates and dies to be engraved, in the best manner to guard against counterfeiting and

fraudulent alternations, and to 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, under this act, the associations entitled to receive the same; which 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 the said notes shall bear such devices and such other statements, and shall be in such form, as the Secretary of the Treasury shall, by regulation, direct: *Provided*, That not more than one sixth part of the notes furnished to an association shall be of a less denomination than five dollars, and that after specie payments shall be resumed no association shall be furnished with notes of a less denomination than five dollars.

Denominations.

Notes to express what.

Devices.

Notes under \$5.

SEC. 23. *And be it further enacted*, That after any such association shall have 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 is hereby authorized to 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 for 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. And no such association shall issue post notes or any other notes to circulate as money than such as are authorized by the foregoing provisions of this act.

When notes may be circulated as money;

to be received for all dues, except, &c.

Post notes, &c., not to be issued.

SEC. 24. *And be it further enacted*, That it shall be the duty of the comptroller of the currency to receive worn-out or mutilated circulating notes issued by any such banking association, and also, on due proof of the destruction of any such circulating notes, to deliver in place thereof to such association other blank circulating notes to an equal amount. And such worn-out or mutilated notes, after a memorandum shall have 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 cancelled, shall be burned to ashes in presence of four persons, one to be appointed by the Secretary of

Worn-out and mutilated notes.

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. And 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 cancelled.

Associations to examine annually its bonds deposited, and make certificate.

SEC. 25. *And be it further enacted*, That it shall be the duty of every banking association having bonds deposited in the office of the treasurer of the United States, once or oftener in each fiscal year, and at such time or times during the ordinary business hours as said officer or officers may select, to examine and compare the bonds so pledged with the books of the comptroller and the accounts of the association, and, if found correct, to execute to the said 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 such certificate. Such examination may be made by an officer or agent of such association, duly appointed in writing for that purpose, whose certificate before mentioned shall be of like force and validity as if executed by such president or cashier; and a duplicate signed by the treasurer shall be retained by the association.

Examination of associations.

Deposited bonds to be held exclusively to secure circulation.

SEC. 26. *And be it further enacted*, That the bonds transferred to and deposited with the treasurer of the United States, as hereinbefore provided, by any banking association for the security of its circulating notes, shall be held exclusively for that purpose, until such notes shall be redeemed, except as provided in this act; but the comptroller of the currency shall give to any such banking association powers of attorney to receive and appropriate to its own use the interest on the bonds which it shall have so transferred to the treasurer; but such powers shall become inoperative whenever such banking association shall fail to redeem its circulating notes as aforesaid. Whenever the market or cash value of any bonds deposited with the treasurer of the United States, as aforesaid, shall be reduced below the amount of the circulation issued for the same, the comptroller of the currency is hereby authorized to demand and receive the amount of such depreciation in other United States bonds at cash value, or in money, from the association receiving said bills, to be deposited with the treasurer of the United States as long as such depreciation continues. And said 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 an association for other bonds of the United States authorized by this act to be received as security for circulating notes, if he shall be of opinion that such an exchange can be made without prejudice to the United States, and he may direct the return of any of said bonds

Provision as to interest.

If bonds depreciate, security to be made good.

Bonds may be exchanged, if, &c.;

to the banking 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 banking association offering to surrender circulating notes shall be equal to the amount required for the circulating notes not surrendered by such banking association, and that the amount of bonds in the hands of the treasurer shall not be diminished below the amount required to be kept on deposit with him by this act: *And provided*, That there shall have been no failure by such association to redeem its circulating notes, and no other violation by such association of the provisions of this act, and that the market or cash value of the remaining bonds shall not be below the amount required for the circulation issued for the same.

may be returned upon cancellation of circulating notes.  
Proviso.

SEC. 27. *And be it further enacted*, That it shall be unlawful for any officer acting under the provisions of this act to countersign or deliver to any association, or to any other company or person, any circulating notes contemplated by this act, except as hereinbefore provided, and in accordance with the true intent and meaning of this act. And any officer who shall violate the provisions of this section shall be deemed guilty of a high misdemeanor, and on conviction thereof shall be punished by fine not exceeding double the amount so countersigned and delivered, and imprisonment not less than one year and not exceeding fifteen years, at the discretion of the court in which he shall be tried.

The countersigning and delivery of circulating notes, except as permitted by this act, made unlawful.

Penalty.

SEC. 28. *And be it further enacted*, That it shall be lawful for any such association to purchase, hold, and convey real estate as follows:—

Associations may hold, &c., certain real estate.

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.

Real estate.

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 such association, or shall purchase to secure debts due to said association.

Such associations shall not purchase or hold real estate in any other case or for any other purpose than as specified in this section. Nor shall it hold the possession of any real estate under mortgage, or hold the title and possession of any real estate purchased to secure any debts due to it for a longer period than five years.

SEC. 29. *And be it further enacted*, That the total liabilities to any association, of any person, or of any company, corporation, or firm for money borrowed, includ-

No person, &c., to be liable to association for more than, &c.

Certain discounts not to be included.

ing in the liabilities of a company or firm the liabilities of the several members thereof, shall at not time exceed one tenth part of the amount of the capital stock of such association actually paid in: *Provided*, That the discount of bona fide bills of exchange drawn against actually existing values, and the discount of commercial or business paper actually owned by the person or persons, corporation, or firm negotiating the same shall not be considered as money borrowed.

Rate of interest.

SEC. 30. *And be it further enacted*, That every 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 or territory 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 in any such state under this act. And when no rate is fixed by the laws of the state or territory, 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 has to run. And the knowingly taking, receiving, reserving, or charging a rate of interest greater than aforesaid shall be held and adjudged 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. And in case a greater rate of interest has been paid, the person or persons paying the same, or their legal representatives, may recover back, in any action of debt, twice the amount of the interest thus paid from the association taking or receiving the same: *Provided*, That such action is commenced within two years from the time the usurious transaction occurred. But 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.

Penalty for taking greater interest.

Action to be commenced in two years.

Amount of money to be kept on hand.

SEC. 31. *And be it further enacted*, That every association in the cities hereinafter named 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. And whenever the lawful money of any association in any of the cities hereinafter 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 associations 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 shall be restored: *Provided*, That three fifths of said fifteen per centum 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 this act, in the cities of Saint Louis, Louisville, Chicago, Detroit, Milwaukee, New Orleans, Cincinnati, Cleveland, Pittsburg, Baltimore, Philadelphia, Boston, New York, Albany, Leavenworth, San Francisco, and Washington City: *Provided, also*, That clearing-house certificates, representing specie or lawful money specially deposited for the purpose of any clearing-house association, shall be deemed to be lawful money in the possession of any association belonging to such clearing-house holding and owning such certificate, and shall be considered to be a part of the lawful money which such association is required to have under the foregoing provisions of this section: *Provided*, That the cities of Charleston and Richmond may be added to the list of cities in the national associations of which other associations may keep three fifths of their lawful money, whenever, in the opinion of the comptroller of the currency, the condition of the southern states will warrant it. And it shall be competent for the comptroller of the currency to notify any association, whose lawful money reserve as aforesaid shall be below the amount to be kept on hand as aforesaid, to make good such reserve; and if such association shall fail for thirty days thereafter so to make good its reserve of lawful money of the United States, the comptroller may, with the concurrence of the Secretary of the Treasury, appoint a receiver to wind up the business of such association, as provided in this act.

SEC. 32. *And be it further enacted*, That each association organized in any of the cities named in the foregoing section 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 each of such associations may keep one half of its lawful money reserve in cash deposits in the city of New York. And each association not organized within the cities named in the preceding section shall select subject to the approval of the comptroller of the currency, an association in either of the cities named in the preceding section at which it will redeem its circulating notes at par, and the comptroller shall give public notice of the names of the associations so selected at which redemptions are to be made by the respective asso-

Liabilities not to be increased until reserve is made good.

Money deposited for redemption of circulation in certain cities to be included.

Clearing-house certificates to be deemed lawful money for this purpose.

Charleston and Richmond.

If association fails, after notice, to make good its reserve.

Circulation to be redeemed in New York at par.

Certain associations to select place for redemption of circulation.

Proceedings in case of failure.

ciations, and of any change that may be made of the association at which the notes of any association are redeemed. If any association shall fail 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 this act, to wind up its affairs: *Provided*, That nothing in this section shall relieve any association from its liability to redeem its circulating notes at its own counter, at par, in lawful money, on demand: *And provided, further*, That every association formed or existing under the provisions of this act shall take and receive at par, for any debt or liability to said association, and all notes or bills issued by any association existing under and by virtue of this act.

Each association to take notes of other associations.

Dividends. Surplus funds.

SEC. 33. *And be it further enacted*, That the directors of any association may, semi-annually, each year, 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.

Association to report to Comptroller quarterly.

Contents of report.

SEC. 34. *And be it further enacted*, That every association shall make to the comptroller of the currency a report, according to the form which may be prescribed by him, verified by the oath or affirmation of the president or cashier of such association; which report shall exhibit in detail, and under appropriate heads, the resources and liabilities of the association before the commencement of business on the morning of the first Monday of the months of January, April, July, and October of each year, and shall transmit the same to the comptroller within five days thereafter. And any bank failing to make and transmit such report shall be subject to a penalty of one hundred dollars for each day after five days that such report is delayed beyond that time. And the comptroller shall publish abstracts of said reports in a newspaper to be designated by him for that purpose in the city of Washington, and the separate report of each association shall be published in a newspaper in the place where such association is established, or if there be no newspaper at such place, then in a newspaper published at the nearest place thereto, at the expense of the association making such report. In addition to the quarterly reports required by this section, every association shall, on the first Tuesday of each month, make to the comptroller of the currency a statement, under the oath of the president or cashier, showing the condition of the association making such statement, on the morning of the day next preceding the date of such statement, in respect to the following items and particulars, to wit: average amount of loans and dis-

Penalty for failing to report.

Comptroller to publish abstracts.

Monthly statements.

counts, specie, and other lawful money belonging to the association, deposits, and circulation. And associations in other places than those cities named in the thirty-first section of this act shall also return the amount due them available for the redemption of their circulation.

SEC. 35. *And be it further enacted*, That 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, in default of which a receiver may be appointed to close up the business of the association, according to the provisions of this act.

Associations not to make loans, &c., on the security of their own stock, &c.

SEC. 36. *And be it further enacted*, That 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 the following accounts, that is to say:—

Indebtedness not to exceed capital stock, except, &c.

First. On account of its notes of circulation.

Second. On account of moneys deposited with, or collected by, such association.

Third. On account of bills of exchange or drafts drawn against money actually on deposit to the credit of such association, or due thereon.

Fourth. On account of liabilities to its stockholders for dividends and reserved profits.

SEC. 37. *And be it further enacted*, That no association shall, either directly or indirectly, pledge or hypothecate any of its notes of 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.

Associations not to hypothecate circulating notes, for, &c. ;

SEC. 38. *And be it further enacted*, That no association, or any member thereof, shall, during the time it shall continue its banking operations, withdraw, or permit to be withdrawn, either in form of dividends or otherwise, any portion of its capital. And if losses shall at any time have 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 shall continue its banking operations, to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts. And all debts due to any association, on which interest is past due and unpaid for a period of six months, unless the same shall be well secured, and shall be in process of collection, shall be considered bad debts

not to withdraw any portion of their capital.

Losses.

Bad debts.

What to be deemed bad debts.

within the meaning of this act: *Provided*, That nothing in this section shall prevent the reduction of the capital stock of the association under the thirteenth section of this act.

Associations not to pay out certain notes.

SEC. 39. *And be it further enacted*, That 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 shall not, at any such time, be receivable, at par, on deposit and in payment of debts by the association so paying out or circulating such notes; nor shall it 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.

List of names and residences of shareholders to be kept ;

SEC. 40. *And be it further enacted*, That the president and cashier of every such 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; and 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; and a copy of such list, on the first Monday of July in each year, verified by the oath of such president or cashier, shall be transmitted to the comptroller of the currency.

to be subject to inspection ;

to be sent to comptroller.

Comptroller to keep control of plates and special dies.

SEC. 41. *And be it further enacted*, That 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 provisions of this act respecting the procuring of such notes, and all other expenses of the bureau, shall be paid out of the proceeds of the taxes or duties now or hereafter to be assessed on the circulation, and collected from associations organized under this act. And 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 from and after the first day of January, eighteen hundred and sixty-four, 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, as aforesaid, on the average amount of its capital stock beyond the amount invested in United States bonds; and in case of default in the payment thereof by any association, the duties aforesaid may be collected in the manner provided

Expenses to be borne by associations.

Duty upon circulation, deposits, and capital stock to be paid semi-annually.

for the collection of United States duties of other corporations, or the treasurer may reserve the amount of said duties out of the interest, as it may become due, on the bonds deposited with him by such defaulting association. And it shall be the duty of each association, within ten days from the first days of January and July of each year, to make a return, under the oath of its president or cashier, to the treasurer of the United States, in such form as he 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 said first days of January and July as aforesaid, and in default of such return, and for each default thereof, each defaulting association shall forfeit and pay to the United States the sum 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; and in case of such default the amount of 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 other manner as the treasurer may deem best: *Provided*, That nothing in this act, shall be construed to prevent all the shares in any of the said associations, held by any person or body corporate, from being included in the valuation of the personal property of such person or corporation in the assessment of taxes imposed by or under state authority at the place where such bank is located, and not elsewhere, but not at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of such state: *Provided, further*, That the tax so imposed under the laws of any state upon the shares of any of the associations authorized by this act shall not exceed the rate imposed upon the shares in any of the banks organized under authority of the state where such association is located: *Provided, also*, That nothing in this act shall exempt the real estate of associations from either state, county, or municipal taxes to the same extent, according to its value, as other real estate is taxed.

Sec. 42. *And be it further enacted*, That any association may go into liquidation and be closed by the vote of its shareholders owning two thirds of its stock. And whenever such vote shall be taken 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

How collected, if not paid in time.

Return of circulation, &c., to be made.

Penalty for default.

Shares not hereby exempted from taxation by state authority.

Limit of state tax.

Real estate to be taxed.

How associations may be closed.

Proceedings.

also in a newspaper published in a city or town in which the association is located, and if no newspaper be there published, then in the newspaper published nearest thereto, that said 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. And at any time after the expiration of one year from the time of the publication of such notice as aforesaid, the said association may pay over to the treasurer of the United States the amount of its outstanding notes in the lawful money of the United States, and take up the bonds which said association has on deposit with the treasurer for the security of its circulating notes; which bonds shall be assigned to the bank in the manner specified in the nineteenth section of this act, and from that time the outstanding notes of said association shall be redeemed at the treasury of the United States, and the said association and the shareholders thereof shall be discharged from all liabilities therefor.

Treasurer to execute duplicate receipts.

SEC. 43. *And be it further enacted*, That the treasurer, on receiving from an association lawful money for the payment and redemption of its outstanding notes, as provided for in the preceding section of this act, shall execute duplicate receipts therefor, 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, which amount shall be paid into the treasury of the United States, and placed to the credit of such association upon redemption account. And it shall be the duty of the treasurer, whenever he shall redeem any of the notes of said association, to cause the same to be mutilated, and charged to the redemption account of said association; and all notes so redeemed by the treasurer shall, every three months, be certified to and burned in the manner prescribed in the twenty-fourth section of this act.

Redeemed notes to be mutilated, &c.

State banks may become national associations.

SEC. 44. *And be it further enacted*, That any bank incorporated by special law, or any banking institution organized under a general law of any state, may, by authority of this act, become a national association under its provisions, by the name prescribed in its organization certificate; and in such case the articles of association and the organization certificate required by this act may be executed by a majority of the directors of the bank or banking institution; and said 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 said bank or banking institution into a national association under this act. And a majority of the directors, after executing said 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

Mode of procedure.

association. The shares of any such bank may continue to be for the same amount each as they were before said conversion, and the directors aforesaid may be the directors of the association until others are elected or appointed in accordance with the provisions of this act; 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 act. When the comptroller shall give to such association a certificate, under his hand and official seal, that the provisions of this act have been complied with, and that it is authorized to commence the business of banking under it, 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 in this act for other associations organized under it, and shall be held and regarded as an association under this act: *Provided, however,* That no such association shall have a less capital than the amount prescribed for banking associations under this act.

SEC. 45. *And be it further enacted,* That all associations under this act, when 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. And the Secretary of the Treasury shall require of the associations thus designated 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: *Provided,* That every association which shall be selected and designated as receiver or depository of the public money shall take and receive at par all of the national currency bills, by whatever association issued, which have been paid in to the government for internal revenue, or for loans or stocks.

SEC. 46. *And be it further enacted,* That if any such association shall at any time fail to redeem, in the lawful money of the United States, any of its circulating notes, when payment thereof shall be lawfully demanded, during the usual hours of business, at the office of such association, or at its place of redemption aforesaid, 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

Associations, when so designated, may be depositaries of public moneys, except, &c. ;

may be financial agents.

Designated depositaries to pay promptly ;

to receive national currency bills at par.

If associations fail to redeem their circulation, the notes may be protested, unless, &c.

Notice of protest, &c., to be forwarded to comptroller.

Association not to do business further, except, &c.

Notes not to be protested in certain cases.

Fees of notary.

Upon notice of failure to redeem circulation, comptroller to send special agent to ascertain facts,

when to declare securities forfeited,

to notify holders of notes to present them for payment,

to pay notes and cancel bonds.

place at which they are redeemable, shall offer to waive demand and notice of the protest, and shall, in pursuance of such offer, make, sign, and deliver 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; and such 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. And after such default, on examination of the facts by the comptroller, and notice 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: *Provided*, That if satisfactory proof be produced to such notary-public that the payment of any such notes is restrained by order of any court of competent jurisdiction, such notary-public shall not protest the same; and when the holder of such notes shall cause more than one note or package to be protested on the same day, he shall not receive pay for more than one protest.

SEC. 47. *And be it further enacted*, That on receiving notice that any such association has failed to redeem any of its circulating notes, as specified in the next 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 such association has refused to pay its circulating notes in the lawful money of the United States, when demanded as aforesaid, and report to the comptroller the fact so ascertained; and if, from such protest or the report so made, the comptroller shall be satisfied that such association has refused to pay its circulating notes as aforesaid and is in default, he shall, within thirty days after he shall have received notice of such failure, declare the United States bonds and securities pledged by such association forfeited to the United States, and the same shall thereupon be forfeited accordingly. And thereupon the comptroller shall immediately 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 said 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. And it shall be lawful for the Secretary of the Treasury, from time to time, to make such regula-

tions respecting the disposition to be made of such circulating notes after presentation thereof for payment as aforesaid, and respecting the perpetuation of the evidence of the payment thereof as may seem to him proper; but all such notes, on being paid, shall be cancelled. And for any deficiency in the proceeds of the bonds pledged by such association, when disposed of as hereinafter specified, to reimburse to the United States the amount so expended in paying the circulating notes of such association, the United States shall have a first and paramount lien upon all the assets of such association: 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.

The United States to have priority of lien upon assets for and deficiency in redemption of circulation.

SEC. 48. *And be it further enacted*, That whenever the comptroller shall become satisfied, as in the last preceding section specified, that any association has refused to pay its circulating notes as therein mentioned, he may, instead of cancelling the United States bonds pledged by such association, as provided in the next preceding section, cause so much of them as may be necessary to redeem the outstanding circulating notes of such association to be sold at public auction in the city of New York, after giving thirty days' notice of such sale to such association.

Bonds pledged as security may be sold at auction;

SEC. 49. *And be it further enacted*, That the comptroller of the currency may, if he shall be of opinion that the interests of the United States will be best promoted thereby, sell at private sale any of the bonds pledged by such association, and receive therefor either money or the circulating notes of such failing association: *Provided*, That no such bonds shall be sold by private sale for less than par, nor less than the market value thereof at the time of sale: *And provided, further*, That no sales of any such bonds, either public or private, shall be complete until the transfer thereof shall have been made with the formalities prescribed in this act.

or at private sale.

SEC. 50. *And be it further enacted*, That on becoming satisfied, as specified in this act, 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 shall deem proper, who, 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 such association, 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, 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

Proviso.

Comptroller may appoint a receiver to close affairs of defaulting association.

Bond and duties of receiver, &c.

the individual liability of the stockholders provided for by the twelfth section of this act; and such receiver shall pay over all money so made to the treasurer of the United States, subject to the order of the comptroller of the currency, and also make report to the comptroller of the currency of all his acts and proceedings. The comptroller shall thereupon 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. And from time to time the comptroller, after full provision shall have been first made for refunding to the United States any such deficiency in redeeming the notes of such association as is mentioned in this act, 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 from time to time, as the proceeds of the assets of such association shall be paid over to him, he shall make further dividends, as aforesaid, on all claims previously proved or adjudicated; and the remainder of such 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: *Provided, however,* That if such association against which proceedings have been so instituted, on account of any alleged refusal to redeem its circulating notes as aforesaid, shall deny having failed to do so, such association may, at any time within ten days after such association shall have been notified of the appointment of an agent, as provided in this act, 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.

If association denies that it has failed to redeem its notes, it may apply to the courts for an injunction.

Proceedings.

Fees for protest and other expenses, how to be paid.

SEC. 51. *And be it further enacted,* That all fees for protesting the notes issued by any such banking association shall be paid by the person procuring the protest to be made, and such banking association shall be liable therefor; but no part of the bonds pledged by such banking association, as aforesaid, shall be applied to the payment of such fees. And all expenses of any preliminary or other examinations into the condition of any association shall be paid by such association; and all expenses of any receivership shall be paid out of the assets of

such association before distribution of the proceeds thereof.

SEC. 52. *And be it further enacted*, That all transfer of the notes, bonds, bills of exchange, and other evidences of debt owing to any 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, with a view to prevent the application of its assets in the manner prescribed by this act, 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.

Transfers, assignments, &c., in contemplation of insolvency, &c., to be void.

SEC. 53. *And be it further enacted*, That if the directors of any 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 act, all the rights, privileges, and franchises of the association derived from this act 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.

Penalty upon directors for violations of this act.

Violation, how to be determined.

Personal liability.

Comptroller may appoint person to examine the affairs of any association.

SEC. 54. *And be it further enacted*, That the comptroller of the currency, with the approbation of the Secretary of the Treasury, as often as shall be deemed necessary or proper, shall appoint a suitable person or persons to make an examination of the affairs of every banking association, which person shall not be a director or other officer in any association whose affairs he shall be appointed to examine, and 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. And the association shall not be subject to any other visitatorial powers than such as authorized by this act, except such as are vested in the several courts of law and chancery. And 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.

Duty of such examiner.

Pay.

Penalty upon officers, &c., of association for embezzlement, &c., of funds.

SEC. 55. *And be it further enacted*, That every president, director, cashier, teller, clerk, or agent of any association, who shall embezzle, abstract, or wilfully misapply any of the moneys funds, or credits of the association, or shall, without authority from the directors, issue or put in circulation any of the notes of the association, or shall, without such authority, issue or put forth any certificate of deposit, draw any order or bill of exchange, make any acceptance, assign any note, bond, draft, bill of exchange, mortgage, judgment, or decree, or shall make any false entry in any book, report, 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, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by imprisonment not less than five nor more than ten years.

District attorneys to conduct certain suits.

SEC. 56. *And be it further enacted*, That all suits and proceedings arising out of the provisions of this act, in which the United States or its officers or agents shall be parties, shall be conducted by the district attorneys of the several districts, under the direction and supervision of the solicitor of the treasury.

In what courts, suits, &c., under this act may be prosecuted.

SEC. 57. *And be it further enacted*, That suits, actions, and proceedings, against any association under this act, may be had in any circuit, district, or territorial court of the United States held within the district in which such association may be established; or in any state, county, or municipal court in the county or city in which said association is located, having jurisdiction in similar cases: *Provided, however*, That all proceedings to enjoin the comptroller under this act shall be had in a circuit, district, or territorial court of the United States, held in the district in which the association is located.

Proceedings for injunctions to be in what courts.

Penalty for mutilating notes to make them unfit for reissue.

SEC. 58. *And be it further enacted*, That every person who shall mutilate, cut, deface, disfigure, or perforate with holes, or shall unite or cement together, or do any other thing to any bank bill, draft, note, or other evidence of debt, issued by any such association, or shall cause or procure the same to be done, with intent to render such bank bill, draft, note, or other evidence of debt unfit to be reissued by said association, shall, upon conviction, forfeit fifty dollars to the association who shall be injured thereby, to be recovered by action in any court having jurisdiction.

Penalty for counterfeiting notes.

SEC. 59. *And be it further enacted*, That if any person shall falsely make, forge, or counterfeit, or cause or procure to be made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting any note in imitation of, or purporting to be in imitation of, the circulating notes issued under the provisions of

this act, or shall pass, utter, or publish, or attempt to pass, utter, or publish, any false, forged, or counterfeited note, purporting to be issued by any association doing a banking business under the provisions of this act, knowing the same to be falsely made, forged, or counterfeited, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering, any such circulating notes, issued as aforesaid, or shall pass, utter, or publish, or attempt to pass, utter, or publish, as true, any falsely altered or spurious circulating note issued, or purporting to have been issued, as aforesaid, knowing the same to be falsely altered or spurious, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law shall be sentenced to be imprisoned and kept at hard labor for a period of not less than five years, nor more than fifteen years, and fined in a sum not exceeding one thousand dollars.

for knowingly  
uttering, &c.

SEC. 60. *And be it further enacted*, That if any person shall make or engrave, or cause or procure to be made or engraved, or shall have in his custody or possession any plate, die, or block after the similitude of any plate, die, or block from which any circulating notes issued as aforesaid shall have been prepared or printed, with intent to use such plate, die, or block, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any blank note or notes engraved and printed after the similitude of any notes issued as aforesaid, with intent to use such blanks, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any paper adapted to the making of such notes, and similar to the paper upon which any such notes shall have been issued, with intent to use such paper, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, every such person, being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept to hard labor for a term not less than five or more than fifteen years, and fined in a sum not exceeding one thousand dollars.

for engraving,  
&c., plates for  
forging notes,  
&c.

for having  
blank notes,  
&c., with intent,

for having  
paper, &c.

SEC. 61. *And be it further enacted*, That it shall be the duty of the comptroller of the currency to report annually to congress at the commencement of its session—

Comptroller to  
report annually  
to congress.

First. A summary of the state and condition of every association from whom reports have been received the preceding year, at the several dates to which such reports refer, with an abstract of the whole amount of banking capital returned by them, of the whole amount of their debts and liabilities, the amount of circulating notes outstanding, and the total amount of means and resources,

Contents of  
report.

Contents of  
comptroller's  
report to  
congress.

specifying the amount of lawful money held by them at the times of their several returns, and such other information in relation to said associations as, in his judgment, may be useful.

Second. A statement of the associations whose business has been closed during the year, with the amount of their circulation redeemed and the amount outstanding.

Third. Any amendment to the laws relative to banking by which the system may be improved, and the security of the holders of its notes and other creditors may be increased.

Fourth. The names and compensation of the clerks employed by him, and the whole amount of the expenses of the banking department during the year. And such report shall be made by or before the first day of December in each year, and the usual number of copies for the use of the senate and house, and one thousand copies for the use of the department, shall be printed by the public printer and in readiness for distribution at the first meeting of congress.

Saving clauses.

SEC. 62. *And be it further enacted*, That the act entitled "An act to provide a national currency, secured by a pledge of United States stocks, and to provide for the circulation and redemption thereof," approved February twenty-fifth, eighteen hundred and sixty-three, is hereby repealed: *Provided*, That such repeal shall not affect any appointments made, acts done, or proceedings had, or the organization, acts, or proceedings of any association organized or in the process of organization under the act aforesaid: *And provided, also*, That all such associations so organized or in process of organization shall enjoy all the rights and privileges granted, and be subject to all the duties, liabilities, and restrictions imposed by this act, and with the approval of the comptroller of the currency, in lieu of the name specified in their respective organization certificates, may take any other name preferred by them and duly certified to the comptroller, without prejudice to any right acquired under this act, or under the act hereby repealed; but no such change shall be made after six months from the passage of this act: *Provided, also*, That the circulation issued or to be issued by such association shall be considered as a part of the circulation provided for in this act.

Executors,  
trustees, &c.,  
holding stock,  
not to be per-  
sonally liable.

SEC. 63. *And be it further enacted*, That persons holding stock as executors, administrators, guardians, and 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 said trust-funds would be if they were respectively living and competent to act and hold the stock in their own names.

Act may be  
altered or  
repealed.

SEC. 64. *And be it further enacted*. That congress may at any time amend, alter, or repeal this act.

APPROVED, June 3, 1864.

## Annual Report, Comptroller of Currency (Hugh McCulloch)

[November 25, 1864]

OFFICE OF COMPTROLLER OF THE CURRENCY,  
November 25, 1864.

In compliance with the requirements of the 61st section of the national currency act, I have the honor of making through you to the Congress of the United States the following report:

Since my last annual report two hundred and eighty-two new banks have been organized, and one hundred and sixty-eight State banks have been changed into national ones. Of the one hundred banks last organized, sixty-seven have been conversions of State banks, and nearly all the papers now being filed are for the change of State banks into national associations.

There are now in existence, under the national currency act, five hundred and eighty-four associations, which are located in the following States:

In Maine.....	18	In Ohio.....	84
In New Hampshire.....	9	In Michigan.....	15
In Vermont.....	10	In Indiana.....	34
In Massachusetts.....	67	In Illinois.....	38
In Rhode Island.....	2	In Wisconsin.....	15
In Connecticut.....	20	In Minnesota.....	4
In New York.....	100	In Iowa.....	20
In New Jersey.....	16	In Missouri.....	7
In Pennsylvania.....	109	In Kansas.....	1
In Delaware.....	1	In Nebraska Territory.....	1
In Maryland.....	3	In Kentucky.....	1
In District of Columbia.....	2	In Tennessee.....	3
In Virginia.....	1	In Louisiana.....	1
In West Virginia.....	2		

The paid-in capital of the banks in the respective States and Territories, the currency delivered to them, (a considerable portion of which has not been put into circulation,) and the bonds deposited with the Treasurer to secure their notes, are as follows:

State.	Capital stock paid in.	Circulation.	Bonds.
Maine.....	\$2, 749, 800. 00	\$1, 887, 880	\$2, 244, 500
New Hampshire.....	1, 120, 000. 00	552, 700	944, 000
Vermont.....	1, 490, 000. 00	1, 311, 800	1, 636, 000
Rhode Island.....	700, 000. 00	414, 000	560, 000
Massachusetts.....	25, 909, 040. 00	12, 536, 850	16, 888, 650
Connecticut.....	5, 176, 638. 00	4, 084, 050	4, 525, 500
New York.....	20, 599, 175. 03	12, 584, 950	14, 064, 600
Pennsylvania.....	21, 120, 148. 88	10, 193, 830	14, 964, 100
New Jersey.....	2, 141, 249. 00	1, 756, 170	2, 011, 000
Delaware.....	300, 000. 00	200, 000	250, 000
Maryland.....	1, 560, 000. 00	1, 245, 000	1, 400, 000
District of Columbia.....	600, 000. 00	477, 000	534, 000
Virginia.....	95, 025. 00	95, 000	112, 000
West Virginia.....	206, 950. 00	140, 000	230, 000
Ohio.....	10, 035, 165. 86	7, 505, 880	8, 749, 850
Kentucky.....	200, 000. 00	162, 000	184, 000
Indiana.....	4, 201, 671. 26	3, 148, 400	3, 924, 100
Illinois.....	4, 147, 837. 25	3, 396, 560	3, 794, 600
Michigan.....	1, 165, 090. 00	797, 800	943, 500
Wisconsin.....	1, 040, 277. 00	774, 500	903, 050
Minnesota.....	590, 000. 00	442, 000	603, 000
Iowa.....	1, 215, 000. 00	945, 900	1, 092, 000
Nebraska Territory.....	40, 000. 00	27, 000	30, 000
Kansas.....	100, 000. 00	49, 000	55, 000
Missouri.....	1, 621, 530. 00	722, 000	865, 000
Tennessee.....	340, 000. 00	234, 380	263, 000
Louisiana.....	500, 000. 00	180, 000	200, 000
Total.....	108, 964, 597. 28	65, 864, 650	81, 961, 450

A detailed statement of the affairs of each bank on the first Monday of October last, with an abstract of the condition of all of them in the aggregate on that day, is herewith submitted, together with the names and compensation of the clerks, and the total expenses of the bureau for the fiscal year.

A large proportion of the circulating notes which have been furnished by the Comptroller was intended to take the place and is taking the place of the circulation of such State banks as have been converted into national ones, or of those whose notes have been voluntarily retired, or have been returned from those parts of the country in which the notes of the United States and of the national banks are alone current; so that the currency delivered to the national banks is not and will not be altogether an addition to the paper money of the country, but rather, to a considerable extent, the substitution of it for that of the State banks.

It is perhaps to be regretted that so many new banks have been organized in States where, before the passage of the act, there was no deficiency of banking capital. There would have been less cause for apprehension that banking capital in any of the States was being too rapidly increased, if, by suitable legislation of the States, State

banks had been sooner authorized to avail themselves of the benefits of the national currency act, and the managers of banks, where the necessary legislation had been obtained, had more promptly discerned the inevitable tendency of the public sentiment, and co-operated with the government in its efforts to nationalize the bank note circulation of the country. It was not the intention of the originators and friends of the system, nor has it been the policy of the Comptroller, to swell, through the instrumentality of the national banks, the volume of paper money. On the contrary, the system was designed to check overissues by requiring ample security for every dollar which should be put into circulation, and it has been the aim of the Comptroller so to administer the law as to prevent, instead of encouraging, an unhealthy and dangerous expansion of credits.

I am happy in being able to say that my apprehensions of a too rapid increase of national banks have been much lessened by the recent action of many State banks. The legislature of Pennsylvania, following the example of the legislatures of Massachusetts, Connecticut, &c., has recently authorized the banks of that State to reorganize under the national system, and the stockholders of so many of them are availing themselves of this authority, as to render it quite certain that at an early day there will be in this great central State, without a dangerous increase of its banking capital, but one system of banking. In fact, the indications are now unmistakable that the time is not far distant when the people of the United States will be everywhere relieved of a bank note circulation of limited credit and uncertain value, and supplied with one of uniform credit and as solvent as the nation. It has been the earnest wish of the Comptroller that this desirable result should be brought about through the agency of existing banks, rather than by the organization of new ones, so that the national circulation might be introduced with as little increase of banking capital as possible. A national bank note currency will be one of the compensations for the heavy debt which has been incurred in the terrible contest in which the nation has been involved. If it can be everywhere introduced, as now seems probable, without creating a dangerous bank note inflation, it will prove to be a compensation which more than anything else will reconcile the people to the burdens which the war must necessarily impose upon them. It will be so by its tendency to regulate domestic exchanges, by the stability it will give to trade, in preventing unsecured issues and bank note panics, by saving the people from losses in the use of paper money, and by its influence in securing and perpetuating the national unity which is the ark of our safety.

It is an interesting fact, that this great change is taking place—this great financial revolution, if I may so call it, is being accomplished, without disturbing the business of the country. State banks, whose conversions are facilitated by enabling acts, are being daily reorganized without a curtailment of discounts, or even a temporary derangement of their affairs. Nearly all the banking capital of Philadelphia has been recently nationalized, with scarcely an interruption of the business of the banks for a single day. In States where no enabling legislation has been obtained, the change from the State to the national system is attended with more difficulty. But even in these States, by the organization of national banks by the stockholders of

State banks, and the transfer of the assets of the latter to the former, the change has been already, in many instances, effected without loss to the owners, and with very little practical inconvenience to the managers.

It is also an interesting fact, that the stock of State banks which have been changed into national associations has not been depreciated by the change; on the contrary, the shares of most of them have been appreciated, and I know of no instance in which their real or market value has been injuriously affected by it. This fact sufficiently refutes the charge, sometimes urged against the system, that it was being forced upon the country to the prejudice of the stockholders of State institutions.

It may be proper for me to state another fact in this connexion of interest to the public, which is, that the national banks are, without any known exceptions, in safe, although some of them are in inexperienced hands, and that the fears that the national banking system would be the means of filling the country with banks of fictitious capitals, and be a reproduction, on a large scale, of the stock banking systems of States in which they had proved to be a failure, if not a fraud, are, from present indications, without a real foundation.

The fact that such apprehensions were entertained or were professed to be entertained by the bankers of a State, in which a system similar in some of its main features was in practical operation, intimidated, for a while, the capitalists of other States, and retarded the reorganization of State banks, but worked no permanent injury to the national system. On the contrary, the expression of these fears has led to a thorough examination of the act, and a careful observation of its administration, and the result has been favorable to both. It has been discovered that in many important particulars the national system differs from, and is an improvement upon, the State system, which it the most closely resembles; that it restricts circulation to ninety per cent. of the bonds on deposit with the Treasurer, and prohibits the banks from issuing notes to an amount exceeding their bona fide paid up capitals, sworn to by their officers; that every interior national bank, in addition to redeeming its notes at its own counter, is compelled to redeem at par, at some commercial centre, thereby tending to prevent high rates of exchange between the different sections of the country, and that, in case of the failure of a bank to redeem its notes according to the provisions of the act, these notes, instead of being depreciated, would be at once redeemable in lawful money, at the treasury of the United States. It has been also ascertained that the Comptroller is requiring the most satisfactory references or credentials in regard to the standing and responsibility of the persons proposing to organize national banks, and is instituting a system of examinations which will do much to expose and check improper practices on the part of the bankers, and violations of the wholesome provisions of the law.

This examination of the act, and the observation of the manner in which it is being administered, have resulted in the entering up of a popular judgment in favor of the national banking system; a judgment, not that the system is a perfect one, nor free from danger of abuse, but that it is a safer system, better adapted to the nature of our political institutions, and to our commercial necessities, giving more strength to the government, with less risk of its being used by the

government against the just rights of the States, or the rights of the people, than any system which has yet been devised, and that by such amendments of the act as experience may show to be needful, it may be made as little objectionable, and as beneficial to the government and the people, as any paper money banking system that wisdom and experience are likely to invent. It promises to give to the people that long existing "desideratum," a national currency without a national bank, a bank note circulation of uniform value without the creation of a moneyed power in a few hands over the politics and business of the country.

Of course this system depends for its success upon the maintenance of the faith and credit of the nation, which, in their turn, depend upon the preservation of the national integrity. If these fail, the national banking system will fail; but it will go down with all other important interests, and will be but a part of the general wreck. That such a calamity is not in store for us is the confident hope and belief of all true men of the loyal States. The anxieties and apprehensions which have existed heretofore on this point are rapidly disappearing as the loyal mind of the United States has hardened to the inexorable resolution that the Union shall be preserved, and the public credit shall be maintained, no matter what sacrifices and burdens the execution of this resolution may involve.

It is a common objection to the national banking system, on the part of some who favor a national currency, that it will deprive the government of the privilege it might safely use, and the field it might profitably occupy, by the continued circulation of its own notes. Why, it is asked, should not the government drive out of circulation all bank notes, and continue to issue, as it has done since the commencement of the war, its own notes, and thus save the interest which otherwise will go to the banks? In answer, I would remark:

The banking interest in the United States is an important one; it has grown with the business of the country, and has been largely instrumental in developing the national resources and in increasing the national wealth. Banks of issue, badly and dishonestly as many of them have been managed, and disastrous as have been the failures which bad management and dishonesty have produced, have still been of unquestionable advantage to the people. The capital of the country has been largely, and in good faith, invested in them, and thousands of stockholders depend upon the dividends upon their bank stock for support. It is an interest which has stood by the government in its struggles with a gigantic rebellion; and now, when it is indispensable that the government should control the issues of paper money, there has been created a national banking system, not to destroy the State banks but to absorb them, and that, too, without prejudice to their stockholders.

Governments should not be bankers. None has existed which could be safely trusted with the privilege of permanently issuing its own notes as money. Circulating notes have been issued under peculiar circumstances by other governments, as it is now being done by that of the United States, but the judgment of the world is against it as a permanent policy, and nothing but an overpowering public exigency will at any time justify it. Under popular institutions like ours no more dangerous, no more corrupting power could be lodged in the

hands of the party in possession of the government; none more perilous to official probity, and free elections. Give to a party dominant in the legislative and executive branches of the government the authority of issuing paper money for the purpose of furnishing the country with its currency, subject as it would be to no restraint but its own pleasure, and what guaranty would there be that this authority would be honestly and judiciously used? If there were no risk in the preparation of the notes, and checks were provided to make fraudulent issues an impossibility, the power of issuing government promises as a circulating medium is too dangerous a one to be conferred upon any party, except under extraordinary circumstances.

The present issue of United States notes as lawful money, and the decisions of the courts sustaining the constitutionality of the issue, have been justified by the consideration that under a great public necessity, when the nation's life is in peril, policies must be framed and laws must be interpreted with a view to the preservation of the government. This is the paramount consideration to which all others must bend. Whatever opinions may have been, in times past, entertained in regard to the propriety of the issue of United States notes, and the expediency as well as the constitutionality of the law making them a legal tender, there are now, I apprehend, very few intelligent persons who are not persuaded that without these notes, and the character of lawful money given to them by Congress and confirmed by the courts, the credit of the nation would have given way at the very outbreak of the rebellion. When the war has been concluded, and the exigency which made the issue of government notes a necessity has ceased to exist, there will be very few to advocate the continued use of them on the ground of economy.

If, however, there were no objections of the kind alluded to, there are other objections to the permanent issue of circulating notes by the government, which must be apparent to all who have considered the object and uses of a paper currency.

Paper money has been found to be useful, or rather an absolute necessity in all commercial countries for the convenient transaction of business, and as a circulating representative of values too large to be represented by coin. Although the fruitful cause of great evils, by reason of its unregulated use, and of its uncertain and frequently deceptive character, the general utility of it can hardly be questioned. Now, what is needed in a paper circulating medium, is, that it should be convertible into coin; that it should be sufficient in amount to answer the purposes of legitimate business; that it should not, on the one hand, by being overissued, encourage extravagance and speculation and give an artificial and unreliable value to property; nor, on the other hand, by being reduced below the proper standard, interrupt business and unsettle values. It should be supplied to just the extent of the demands of a healthy trade. It should be increased as the regular business of the country may require its increase, and be diminished as the proper demand for it is diminished.

It is not pretended that banks of issue have furnished this kind of circulation. Bank notes, with few exceptions, have been convertible

into coin when there was no demand for coin, and inconvertible when there was. They have, too generally, been issued for the exclusive benefit of the bankers, and not for the convenience of the public, and they have encouraged speculation, when their true mission was to facilitate trade. It has been the bane of a bank note circulation that it has been expanded by the avarice of the bankers, and contracted by the distrust that overissues have created.

Now, this objection to a bank note circulation applies with much greater force to government issues. There is always inducement enough for banks to keep up a full circulation, and against excessive issues there are the restrictions of law and the liability to redeem. Government notes, in the issue thereof, would be regulated only by the necessities of the government or the interests of the party in power. At one time they might be increased altogether beyond the needs of commerce and trade, thereby enhancing prices and inducing speculation; at another, they might be so reduced as to embarrass business and precipitate financial disasters. They would be incomparably worse in this respect than a bank note currency, because the power that should control circulation would be the power that furnishes it. Supplied by an authority not in sympathy with trade, they would not be accommodated to the requirements of trade. They might be the fullest in volume when there was the least demand for a full circulation, and the most contracted when there was a healthy demand for an increase. They would eventually become an undesirable circulation, because there would be no way in which the redemption of them could be enforced: they would be a dangerous circulation, because they would be under the control of political parties; an unreliable circulation, because having no connexion with trade and commerce, they would not be regulated by their necessities.

There are objections to all kinds of paper money; but, in some form, it is a commercial necessity, and no form has yet been contrived so little objectionable as that which is authorized by the national currency act. Under this act the government perform its proper functions by exercising one of its constitutional powers for the regulation of commerce, by fixing the maximum of bank note circulation, securing its solvency, and giving to it nationality of character and uniformity of value. It takes the promises, which are to go among the people through the national banks, puts its seal upon them, and guarantees *their* redemption, as it takes the precious ore from the mines—the property of individuals—coins it into money of the United States and fixes the value thereof. It thus performs the proper offices of government. In doing so it interferes with no State rights, meddles with no man's lawful pursuits. It stands between the bankers and the people, and while it protects the latter from imposition in the use of a bank note currency, it trespasses upon no privileges of the former. Without becoming a banker, and without, as in the case of the charter of the United States Bank, conferring peculiar if not dangerous privileges upon a single corporation, it provides a national circulation, indispensable for its own use and safety in the collection of its internal revenues, and suited to the circumstances of the country.

But while the national currency act is restrictive in its general provisions, and is expected when generally adopted to prevent expansions, there is still danger that too much capital will be invested under it during the suspension of specie payments, and in the existing unsettled condition of our political and financial affairs. When money is plenty, and fortunes are being rapidly acquired, the country is always in a feverish and unhealthy state. This is especially true at the present time. The enormous expenditures of the government, and the great advances in prices since the commencement of the war, have made many persons suddenly rich, and upon fortunes suddenly acquired, have followed reckless expenditures, extravagance, waste. Speculation is taking the place of sober and persevering industry, and thousands are deluded with the notion that the wealth of the nation is being increased by the increase of its indebtedness. The inauguration of a new system of banking, under such circumstances, is peculiarly hazardous, and I have been, from the time of my appointment, more apprehensive that too many banks would be organized, than that the system would not be sufficiently attractive to induce capitalists to become connected with it. The government is the great borrower. Its obligations compose a large portion of the discount line of banks, which are making large profits on government securities at little apparent risk, and the danger is, that the national banking system, with all its restrictions, may, during the suspension of specie payments, and the continuance of the war, add to the plethora of paper money; and that, when the war is over, the banks, deprived of the existing means of investment in government obligations, and finding no legitimate use for their capitals, may be tempted to use them in encouraging operations that will eventually prove to be as unprofitable to themselves, as they will be injurious to the country. For the double purpose, therefore, of keeping down the national circulation as far as it has seemed possible to do it, consistently with the establishment of the system throughout the country, and preventing an increase of banking capital, that might hereafter be instrumental in keeping up the inflation, and retarding the resumption of specie payments, or prove unprofitable to its owners, I have felt it to be my duty to discourage, in many instances, the organization of new banks, and in more instances to refuse my sanction to the increase of the capital of those already organized. In doing so, I may seem to have exercised a power not warranted by the act; but if not sustained by its letter, I have been by its spirit, and I am willing to let the future decide as to the correctness or incorrectness of my course.

But while I entertain the opinion that the currency of the country is already too much expanded, and that it would be a calamity if the national banking system should be the means of materially increasing it, I must not be understood as sanctioning the notion, so generally prevalent, that the high price of coin is to be altogether or chiefly attributed to it, or that gold and silver are, at the present time, the standard of value in the United States. When gold sold in Wall street, on the 1st of July last, at 185 premium, many of the best stocks, as well as productive real estate, were no higher than they have been upon a coin basis.

By referring to the gold market in New York during the three past years it will be perceived that its value has been regulated by other causes than the inflation of the currency.

In January, 1862, gold in New York was at a premium of  $1\frac{1}{2}$  per cent. It soon fell to 1, from which it rose on the 10th of October to 37, and closed on the 31st of December at 34. On the 24th of February, 1863, it had advanced to  $72\frac{1}{2}$ , but on the 26th of March (favorable news having been received from the southwest) it went down to  $40\frac{1}{2}$ , but in twelve days, on the receipt of less favorable intelligence from that quarter, it went up to  $59\frac{1}{2}$ . A few days after, upon the report of the iron-clad attack upon Fort Sumter, it fell to 46, and on receipt of the intelligence of the surrender of Fort Hudson to  $23\frac{1}{2}$ . On the 15th of October it rose to 54, but reached no higher point during that year.

On the 1st of January, 1864, it opened at 52, went up to 88 on the 14th of April, and fell to 67 on the 19th of the same month. On the passage of gold bill, June 22, it rose to 130, and fell the next day to 115. On the 1st of July it was forced up to 185, but on the day following (the gold bill having been repealed) it fell to 130. On the 11th of the same month it went up again to 184; on the 15th it fell to 144, and after various fluctuations dropped on the 26th of September to 87—thus rising between the 1st of January and the 1st of July, 1864, from 52 to 185, and falling between the 1st of July and the 26th of September from 185 to 87. None of these fluctuations were brought about by an increase or decrease of the currency; on the contrary, gold rose the most rapidly when there was no considerable increase of the currency, and fell in the face of large additions to it. Nothing can be more conclusive of the incorrectness of the opinion that gold is always the standard of value, and that the high price it has commanded in the United States during the progress of the war is the result of an inflated currency, than this brief statement of its variations in the New York stock market.

Hostility to the government has been as decidedly manifested in the effort that has been made in the commercial metropolis of the nation to depreciate the currency as it has been by the enemy in the field; and unfortunately the effort of sympathizers with the rebellion, and of the agents of the rebellious States, to prostrate the national credit has been strengthened and sustained by thousands in the loyal States, whose political fidelity it might be ungenerous to question. Immense interests have been at work all over the country, and concentrated in New York, to raise the price of coin, and splendid fortunes have been apparently made by their success. The loyal importer and manufacturer of the east and the produce and provision merchant of the west have locked hands with the enemies of the republic in a common effort, although for a different object, and sometimes have produced results which have created serious apprehensions that the Union might be lost for want of means to prosecute the war, or rather on account of the excessive and unnecessary costliness of the war. The government in its struggles with a gigantic rebellion has not only been contending with

armed rebels in the field, but with unarmed rebels in the loyal States, backed by an immense interest in the hands of loyal citizens.

Gold has been a favorite article to gamble in. It has been forced up and down by those tricks and devices that are so well understood at the stock board. The reverses of our arms have been used by the operators for an "advance" to send it up, and our military successes have been turned to the advantage of those who were interested in a "decline." When the banks and the government suspended specie payments, and a new standard of value was created in the legal tenders, gold and silver, whose legal value had been fixed by the same authority, became an article of traffic, subject to the influences that have control of the market, and yet unfortunately everything necessary for use or consumption was made to follow their upward tendency, as if they were still the proper and only regulator of prices.

The effect of all this has been, not to break down the credit of the government, but to increase enormously the cost of the war and the expense of living; for however small may have been the connexion between the price of coin and our domestic products, every rise of gold, no matter by what means effected, has been used as a pretext by holders and speculators for an advance of prices, to the great injury of the government and the sorrow of a large portion of the people. It is unquestionably true that the abundance of money has facilitated the operations against the credit of the government, and that a more stringent market would have tended to check and restrain them, but it is a mistaken notion that the high price of coin is an evidence of an overissue of currency or of its depreciation. If it were generally believed that the war would be ended by the 1st of January, gold would fall before that time to 25 per cent. premium, if not lower, although the paper money in circulation might in the mean time be largely increased.

The expenditures of the government have created a great expansion of currency and of prices. There would have undoubtedly been an expansion, in a less degree it is true, but still an expansion, if the war had been carried on upon a specie basis. Prices of all the necessaries of life as well as luxuries, and of everything which the government must purchase in the prosecution of the war, are enormously high, and the penalty is yet to be paid, for the inflation, in increased taxation, and the ruin which must overwhelm the thousands who believe, and act upon the belief, that the apparent prosperity of the country is real, and is not to be interrupted. Fortunate will the country be if the war can be closed and prices reduced to former standards without a collapse, which will as greatly excel in the extent of its disaster that which occurred at the close of the last war with England as the present war excels that in costliness and magnitude.

As long as there was any uncertainty in regard to the success of the national banking system, or the popular verdict upon its merits and security, I did not feel at liberty to recommend discriminating legislation against the State banks. It is for Congress to determine if there is any longer a reasonable uncertainty on these points, and if the time has not arrived when all these institutions should be compelled to retire

their circulation. It is indispensable for the financial success of the treasury that the currency of the country should be under the control of the government. This cannot be the case as long as State institutions have the right to flood the country with their issues. As a system has been devised under which State banks, or at least as many of them as are needed, can be reorganized, so that the government can assume a rightful control over bank note circulation, it could hardly be considered oppressive if Congress should prohibit the further issue of bank notes not authorized by itself, and compel, by taxation, (which should be sufficient to effect the object without being oppressive,) the withdrawal of those which have been already issued. My own opinion is, that this should be done, and that the sooner it is done the better it will be for the banks themselves and for the public. As long as the two systems are contending for the field, (although the result of the contest can be no longer doubtful,) the government cannot restrain the issue of paper money; and as the preference which is everywhere given to a national currency over the notes of the State banks indicates what is the popular judgment in regard to the merits of the two systems, there seems to be no good reason why Congress should hesitate to relieve the treasury of a serious embarrassment, and the people of an unsatisfactory circulation.

Some important amendments are required to the act in order that it should be fully accommodated to the wants and business of the country.

The provisions in regard to the lawful money reserve and the distribution of the assets of insolvent banks require modification.

I am still of the opinion that the rates of interest to be charged by the national banks should be fixed by Congress, and not by the States.

There are too many points at which the banks may redeem their notes. All, with the exception of those in Philadelphia and Boston, should redeem in New York. The banks ought to be compelled by law to retain a part, if not all the coin received by them, for interest on their gold-bearing bonds, in order that they may be prepared to lend their influence in favor of a return to specie payments, and some provisions should be introduced by which, when specie payments are resumed, excessive importation of goods may be checked and dangerous exportations of coin may be prevented.

It is of the greatest importance that the national currency system should be independent of politics and freed from political influences. To effect this, and to facilitate the business of the banks with the Comptroller, I am clearly of the opinion that the bureau should be made an independent department, and removed from Washington to Philadelphia or New York.

I do not, however, recommend that any amendments be made by the present Congress. The act will do well enough as it is for another year. When the next Congress assembles, the defects in it will be better understood, by the practical working of the system, than they can be at the present time. The act can then be taken up, and, with

the light which the experience of another year has thrown upon it, judiciously amended.

In reporting the names and compensations of the clerks employed in this bureau, I should neglect a duty to them and to the system if I did not respectfully suggest that a general increase of their salaries should be made, and that the increase of the salaries of those who occupy positions of high trust and responsibility should be liberal. This bureau is already an important one, and it is not unlikely to be one of the most important in the department. There is not a desk in it which should not be filled by a man of intelligence, character, and good business qualifications. Without such men the affairs of the bureau cannot be safely or properly administered, and expensive as living now is in Washington, it is questionable if the services required can be secured without an increase of salaries. If there were no doubt, however, on this point, it is not right that honorable and competent men should be faithfully serving the government for such compensations as leave them, with rigid economy, in no better circumstances at the close of a year than they were at its commencement. There are undoubtedly, in the different departments at Washington, a great many drones and incompetent clerks who do not earn the salaries that are paid them, whose "attendance" should be dispensed with; but my observation, since I have been in Washington, has satisfied me that there are in all the departments a body of clerks who, for intelligence, ability, and hearty devotion to their duties have no superiors anywhere.

To them is the country indebted for the accuracy with which an immense business—a business which has increased ten-fold since the commencement of the war—is transacted. The expenses of the department would be largely reduced if only such were employed, and they were paid respectable salaries. Cheap clerks are a costly article to the government—it is a poor economy that drives away or starves competent ones.

The Deputy Comptroller of this bureau holds an important and responsible position. In the absence of the Comptroller he possesses the power and performs the duties attached to the office of the Comptroller. The gentleman who has charge of the vaults and the currency holds a place of great responsibility; and two or three other clerks are performing duties requiring rare qualifications. I am under great obligations to them, and so is the country, for the prompt and able manner in which they are doing their work, and the valuable services they have rendered in the organization of the bureau and systematizing its business. Important duties are devolved upon them, while they receive but a small portion of the credit which the proper performance of their duties secures to the bureau. In my judgment, the salaries

they are receiving are wholly inadequate to the services they are rendering.

I respectfully recommend, therefore, in addition to a general increase of the salaries of the clerks, that the Deputy Comptroller be paid a salary of thirty-five hundred dollars per annum, and that the comptroller be authorized, with the approval of the Secretary of the Treasury, to employ three other clerks as heads of divisions, at salaries not exceeding twenty-five hundred dollars, respectively.

All which is respectfully submitted.

HUGH McCULLOCH, *Comptroller.*

HON. W. P. FESSENDEN,  
*Secretary of the Treasury.*

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### Fourth Annual Message—Abraham Lincoln

Thirty-Eighth Congress, 2d Session

DECEMBER 6, 1864.

[Source: Senate Journal, 38th Cong., 2d Sess., p. 10]

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The national banking system is proving to be acceptable to capitalists and to the people. On the twenty-fifth day of November five hundred and eighty-four national banks had been organized, a considerable number of which were conversions from State banks. Changes from State systems to the national system are rapidly taking place, and it is hoped that, very soon, there will be in the United States no banks of issue not authorized by Congress, and no bank-note circulation not secured by the government. That the government and the people will derive great benefit from this change in the banking systems of the country can hardly be questioned. The national system will create a reliable and permanent influence in support of the national credit, and protect the people against losses in the use of paper money. Whether or not any further legislation is advisable for the suppression of State bank issues, it will be for Congress to determine. It seems quite clear that the treasury cannot be satisfactorily conducted unless the government can exercise a restraining power over the bank-note circulation of the country.

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## Act of March 3, 1865

[13 Statutes at Large 469, Thirty-Eighth Congress, Chapter 78, 2d Session  
Approved March 3, 1865, by Abraham Lincoln]

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO PROVIDE INTERNAL REVENUE TO SUPPORT THE GOVERNMENT, TO PAY INTEREST ON THE PUBLIC DEBT, AND FOR OTHER PURPOSES," APPROVED JUNE THIRTIETH, EIGHTEEN HUNDRED AND SIXTY-FOUR

\* \* \* \* \*

Tax on bank circulation after, &c.

SEC. 6. *And be it further enacted*, That every national banking association, state bank, or state banking association, shall pay a tax of ten per centum on the amount of notes of any state bank or state banking association, paid out by them after the first day of July, eighteen hundred and sixty-six.

Existing state banks to be preferred until, &c.; in applying to become national banks. 1864, ch. 106.

SEC. 7. *And be it further enacted*, That any existing bank organized under the laws of any state, having a paid-up capital of not less than seventy-five thousand dollars, which shall apply before the first day of July next for authority to become a national bank under the act entitled "An act to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," approved June third, eighteen hundred and sixty-four, and shall comply with all the requirements of said act, shall, if such bank be found by the comptroller of the currency to be in good standing and credit, receive such authority in preference to new associations applying for the same: *Provided*, That 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.

Proviso.

\* \* \* \* \*

What to be deemed the capital of a state bank, for purposes of this act.

SEC. 14. *And be it further enacted*, That the capital of any state bank or banking association which has ceased, or shall cease to exist, or which has been or shall be converted into a national bank, for all the purposes of the act to which this is an amendment, shall be assumed to be the capital as it existed immediately before such bank ceased to exist or was converted as aforesaid. And whenever the outstanding circulation of any bank, association, corporation, company, or person shall be reduced to an amount not exceeding five per centum of the chartered or declared capital existing at the time the same was issued, said circulation shall be free from taxation. And whenever any state bank or banking association has been con-

Circulation when free of tax.

verted into a national banking association, and such national banking association has assumed the liabilities of such state bank or banking association, including the redemption of its bills, such national banking association shall be held to make the required return and payment on the circulation outstanding, so long as such circulation shall exceed five per centum of the capital before such conversion of such state bank or banking association.

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Approved, March 3, 1865.