NELSON ALDRICH

Monetary Commission

MISCELLANY

See also A

Indianapolis 1

Work in 1896 Bank of Indiana lessons / McCulloch Indianapolis Comm Hanna

Importance necessity Banking + Credit to modern economic life development of industries + communities. How brought in contact } touches every person No depositors borrowers

A 1 see also A 1a

Every enterprise The savings producer earnings consumer

local independence

Adviser counsellor

Character of the bankers unequaled in country

Necessity National and international standpoint

notwithstanding all this troubles arising

A 2

Partly from sets of laws knowledge of technique

Restricted character and use of investments

Partly with practice Methods feeble effort through clearing houses

Banks in 1907 cause of panic banks not essential p 4 **

with reserve } with Surplus } Organization

No Cohesion 1 No Cooperation 2 Every time turnover paper non negotiable 3 money in market No resource in time of trouble or unusual demand 4

State details in each case

unfavorable results every year. movement to N.Y. no other plan possible want of Commercial paper

disastrous results affecting every class

Suspension of banks disruption of exchanges leading to failures of farmers & other producers to secure facilities to carry or market their crops

xx xx

Capital	150	Loans & discounts	150
Govt. dep.	150	Securities	700
Bk. dep.	700	Cash	850
Notes	700		1700
	1700		

Liability Reserve 55%
Note reserve 121%
Aldrich liability 70%

Hoenshpressed $200 million.

Capital	150	Loans & discounts	150
Gov. Dep	150	Securities	700
Bk. Dep.	700	Cash	1050
Notes	700+200 900		1900
	1900		

Liability Reserve 60%
Note reserve 116%
Aldrich reserve 75%

Discount $100 mill in cash

Capital	150	Loans & discounts	250
Gov. Dep.	150	Securities	700
Bk. Dep.	700	Cash	950
Notes	900		1900
	1900		

Liability Reserve 54%
Note reserve 105%
Ald. " 67%

Howser

3

Indianapolis

* Organization based our form of Government

* The essential element of rediscounts local self government

* No possibility of political or Wall St control

All now dependent finally on New York (show process)

this is a growing necessity ^of banks isolation conditions and the concentration of capital in New York

---

A concentration of reserves

* with decentralization of control

KC* who pays? Bankers & banks can't do take care of themselves depositors dependent borrowers producers and ultimately consumers

System responsible Wing

See wing p 3 *

No power

which has no means of replenishing except by ~~im~~ ports of ~~Gold~~ Gold

This reduces the reserves of east ^is reserve money

Wasteful and expensive transmission of currency from east & west and so for crop money purposes and return

bonds must be taken care of some way

dangerous credit of nations

System of

Note issue unscientific inelastic Must soon reach rigid limitations & have neither powers of ~~and~~ expansion or ~~or~~ contraction

Want of a broad discount market

Note issue

Discount Market

restrictions upon
Money to hold
bonds until
notes are
redeemed and
cancelled. No
right to reissued
to be given R.A.
Notes to be issued
by R.A. upon
receipt of N.B.
Notes from the
Treas.

Duties of R.A.
to buy bonds.
to maintain redemption
fund and to redeem
notes upon presentation

After certain time
no more bond
secured bank
notes to be secured

Upon redemption of
notes, bonds to be
delivered

P.Y.O.

Indianapolis 4

Transition from apparent prosperity + to depression + panic

Natural inertia Conservative character of business men + bankers

While the defects with their deleterious consequences are admitted on every hand seem intolerable when considered calmly still we have our enormous wealth our vast resources + energy greater than other or all others have enabled to us go on suffering from time to time losses and impairment of productive forces that would have ruined any other country

Wright **

Are we willing to suffer forever

Shall we admit our incapacity to struggle successfully with this great problem and to say that is insoluble in the light of certain solution every where else

Appeals

Every intelligent man who has watched these changes + had an appreciation of the destructive results must have been filled with wonder amazement that a great people has so long submitted to such crude and expensive methods

Reactionary can afford to ignore the results of an infraction of natural laws

Exhuberance of youth

inattention to waste of vitality

Carry out this policy of
That to enable the U.S. to retire ~~at~~ as
soon as possible all
bond secured circulating bank notes
and in consideration of the fact
that the N.G. is to be required to assume
the redemption of outstanding bank notes, and
all note. it shall issue hereafter secured by U.S. bonds
and the U.S. is to be released from
obligation in the respect and in fur
Consideration of the agreement of
to carry

of normal conditions and for anticipating and averting monetary disturbances instead of delaying action until they have become acute. These three essential points, which it has been sought to embody in the plan for the Reserve Association, are these:

1. The organization of the central organ in a more definite legal manner than the clearing houses.

2. The extension of this organization over the entire country instead of its limitation to separate communities.

3. The grant of definite legal powers to the central organism sufficient to enable it to accomplish its proposed objects.

The adoption of the individual bank as a unit in its relations with other banks, and the organization of such individual banks into local associations and district associations having a definite legal status and responsibility, has seemed to the Commission to be the most direct way of accomplishing the first object. The linking up of these local and district associations into the National Reserve Association through the representative system has seemed, in its turn, to be the most effective means of accomplishing the second object.

It would not be practicable to accomplish all the objects proposed by the plan of the Commission simply by conferring new powers upon existing clearing houses. Clearing houses exist only in the larger cities and differ greatly in their form of organization, their functions, and their powers. In so far as the desired result might be accomplished by casting clearing houses into the same legal form and giving to each distinct corporate powers and responsibilities, this is practically what is proposed by the plan for the National Reserve Association. It has seemed advisable, however, in seeking this end, to provide for new and distinct local organizations, in which each bank should have its position and rights clearly defined. No attempt is made, therefore, to deal directly with existing clearing houses, and it is probable that most such institutions will continue to perform their present clearing functions independently of the local associations to be organized under the plan of the Reserve Association. Whatever may occur in this respect, it remains true that the principle set forth in the plan of the Reserve Association is substantially the principle of the federation of the banks of the country through local groups corresponding in many respects to the clearing houses. This is the essential point of departure of the proposed Reserve Association from the European conception of a central bank of issue, and only with this distinction clearly in mind can the plan proposed be intelligently discussed.

We propose to benefit

~~care for~~ to provide for the welfare

~~tend to~~ ensure ~~full~~ employment and good wages to wage earners

~~benefit engaged~~ in industries

~~to~~ enable farmers and other producers

disorganization + financial embarrassment

maintain hope + confidence

~~to~~ meet their current obligations

a plan which will inspire hope and ~~confidence~~ to ~~those~~ ~~who~~ responsible for interested progress and prosperity of a great and give a ~~sense~~ of security to all who are ~~directly~~ interested in our financial institutions

The Commission trust its
proposals will confidence
the thoughtful consideration of the
representatives of an intelligent
people

purposes. to create confidence
to prevent panics - on the part of all our people
to " general suspension of banks -
" " " " credit functions.
to ~~accelerate~~ facilitate the growth -
progress
prosperity of the country

facilities

~~It takes indiv. banks from a condition of helpless isolation and dependence in times of trouble and places them in a position where their independence & integrity are assured they a guaranty of support ~~guaranteed~~ from an unfailing resource ~~guaranteed~~ in time of need.~~

~~Dead money in vaults~~

Purposes

Create confidence

Strength & Stability

Prevent panics

Allay excitement

afford security & prompt redemption to note issues

To depositors

To borrowers

furnish relief in normal & unusual times

Necessities

Concentration
& Mobilization of reserves

Must be quick assets
Conversion of assets

1907.

Who are affected by crises

Wage earners.
Producers - farmers & industries
Exporters

Reconstruction of note issue

to whom given

upon what based

Indispensible in modern practice

Immediate redemption
in lawful money

Convertibility

absolute safety

Elasticity

Describe details of plan

Showing how every requisite
shown by experience
has been followed + new
safeguards adopted.

Phases from a national
and
International ~~aspect~~ standpoint

As affecting individuals
classes
communities

National

International

development

Most important to rural +
partially developed com

Reason for appointment of Commission

1907

Series of panics

effect of these general & special

This is perhaps partly accounted for by the fact ~~It must be remembered~~ that for nearly 50 years prior to 1907 the public mind was distracted and the public judgement obscured by a series of absorbing discussions on monetary or rather currency questions

IV

As in the earlier days, every successful bank manager is brought into close and confidential relations with the men upon whose activities and influence the welfare of every community depends. His advice and assistance are solicited for the promotion and support of every industrial enterprise, and his counsel is asked with reference to the investment of the savings and earnings of the people he serves.

In respect to their important responsibilities in this connection the great mass of the bank managers of the United States leave nothing to be desired. In no other country do we find their equals in the uniform courtesy and intelligence with which their business is transacted. They are vigilant in safeguarding the interests of their stockholders as well as their customers. Nowhere else do we find the same skill in the technique of the profession. The practical details of the business of a bank are conducted here with a facility and rapidity quite unknown outside the United States. Everyone who has attempted to transact simplest business in a foreign bank—cashing a check, —will confirm this state-

Bankers

			Cap		Rep
N E	140	7.7	8	—	8
East	559	28.6	29	—	18
MW	550	28.2	28	—	31
So	388	19.1	19	—	26
W+P	314	16	16	—	20
	1951	99.6			

New York 14% — 8%

1951) 1400 (7.7
1365
13430

1951) 559 (28.6
3902
16880
15608
12720

1951) 550 (28.2
3902
15980
15608
3720

1951) 314 (16
1951
11890
11706

1951) 388 (19.1
1951
19290
17559
17810

77
4
308

39) 3 (7.7
273
270

92
20
77
28

276
1951 14
16

39) 2 (5
195

8090
780496. 420

15
77

in a philosophical way
do reason back to the
causes of our
difficulties

In this county
We cannot ~~afford~~ ~~undertake~~
To discourage individual
initiative or to curb the
aggressive ambition of our
business men the necessary
for the healthy growth development

Balance of trade -
and balance of payments

analyze & state
importance from international

Amount of our foreign trade
commerce

Imp of exports -
~~Sto~~ that this business
should be.

We should have it

Experience U.S.

Modern methods not
over sixty years old
Slow progress in other
Experience lines
U.S.

Slow progress
formerly

~~State~~
recent development
rapid and uniform

1

Note issues

General plan excepting Asco

State exceptions.

One exclusive bank of issue closely and governmental control

subject to strict governmental

of ~~rapid~~ limitations

Functions of government

obligations to protect its citizens

1st Specie reserves 40%

Amount of unsecured issues

above that taxed issues

Among the ~~[illegible]~~ economic problems ~~affecting~~ whose ~~[illegible]~~ solution ~~[illegible]~~ must have serious influence on the industrial and commercial development of our country none is more important than ~~[illegible]~~ the question of how best to effect a comprehensive organization of our banking ~~[illegible]~~ institutions and and a thorough reconstruction of our monetary ~~[illegible]~~ system

Of one of most difficult serious ~~of the economic~~ problems that confront the American people is generally agreed with me that I think few will ... none is more important ~~or vital by reason of its~~ ~~or~~ in its relation to the ~~[illegible]~~ commercial development of the country. It's wise & correct solution is vital to the interest of every class and every section

Increase
value product per acre
in 10 years
corn
8.51 to 15.20
increase in percentage
corn 78.6
Wheat 114.
Cotton 65.6
Tobacco 56.2
how
by the application of
scientific principle

No change in banking
system
in 10 years.
If this were
applied to ag.

Change in condition of farmers
now principal depositors.

Instead of debtors Rise become creditors

Change in their relation to banks
formerly debtors
Now creditors depositors
and stockholders

Total
Value farm product
9.000 Millions

Corn	1,500.
Wheat thirteen	700.
Cotton almost	1000.
Exports 700.	

NATIONAL MONETARY COMMISSION,
WASHINGTON, D. C.

At the
Suggeston of Comn I have
prepared the outline of such a
plan for discussion & criticism

---

propose to discuss briefly some of the
features of the plan
some of the phrases of the remedial
~~Complex and [illegible] intricate~~ legislation
far reaching proposed

Opening *
Question
Magnitude

Political & physical
form of gov. vast area

Purpose to meet conditions here
present and prospective
entirely different problem than those
treated elsewhere
and to avail ourselves
of best features growing
out of experience other
Commercial Countries

Opening /

Magnitude
~~Nature~~ of problem

Have to deal with
Increase in
no. of banks
in resources

Soon

Weeks

Might it be well to add to Paragraph 6, on Page 2, a suggestion that the issue of Clearing House certificates, the only emergency means of protecting local conditions, while answering the purpose for which issued are themselves largely the cause of breaking down domestic exchange, and, therefore, Clearing House banks hesitate to issue them until conditions become unbearable.

In Paragraph 17, Page 3, I think I would insert "it is charged that as a result of this action discrimination and favoritism have resulted in the treatment of different banks."

In the middle of the same page, speaking of local associations, this sentence is used. "In the local association the individual bank is the voting unit." Is that strictly true, when the stock held by these banks is one of the elements in electing directors?

I think I would leave out the last sentence in the same Paragraph. While it is true, I do not exactly like to emphasize, at least any more than is necessary, the fact that we are deliberately putting the control of local associations and the branches in the hands of the smaller banks.

In the first line of the 4th Paragraph, on Page 4, leave out the words "at first."

On Page 5, under the duties of National Reserve Association, you state, "it holds the cash reserves of the banks of the United States with provision for their use only for specific purposes." Would it not be better to say, "it holds a portion, etc."

In the sentence before the sections relating to note issues, on the same page, would it not be well to insert after the word "effective,"-- "by all European countries," or rewrite the sentence and say that it is the universal practice in European countries to purchase short time bills, etc.

Under note issues, in line 9, you state, "These bonds are largely of a class which it would not be profitable for banks to buy as a basis for circulation." As a matter of fact, banks do buy all classes of bonds, or rather bonds bearing different rates of interest, changing them from time to time when they can make a profit by so doing.

In the fourth line of the last Paragraph on the same page, referring to the standard of commercial paper established in the bill:- It seems to me we have established three or four standards, and if so should we not say "to conform to the standards established in the bill."

In the Paragraph referring to Government bonds, on Page 6, at the bottom of the page, you state that the 2s would have a market value of approximately 67. Of course the market price of a bond would depend on its maturity, and 67 would only be the price if it were to run indefinitely.

On Page 9, the Paragraph commencing "A wider domestic exchange,"-- Would it not be well to add the words "and, as a matter of fact, most panics are produced by this condition."

It has been charged ~~very often, we believe~~, by those who have not given careful investigation to the subject, that the National Reserve Association is ~~simply~~ another United States Bank, similar to the First and Second institutions of that name, and that troubles will arise from an adoption of this plan similar to those which brought about the downfall of both the First and Second United States Banks. Without going into the merits of those controversies, or whether it was wise and justifiable to terminate those banks, we submit that the institution which we propose is so different in its organization and in its powers from either the First or Second United States Banks--which differed in detail, but were the same in general character--that no proper conclusion can be reached as to the result of this proposed system from the operation of those which have gone before.

The suggestion of a few of the many differences which exist will illustrate this statement. The capital of the National Reserve Association is furnished by the subscribing banks and must be retained by them as long as they are members of the Association. Therefore, it cannot get into the hands of foreigners or of interests which might use it for political or speculative purposes, and loans cannot be made on it by the Reserve Association itself. Loans were made by the First and Second United States Banks on their own stock, tying up, in this way, a large part of their available capital. Much of the stock drifted into the hands of foreign interests, a movement which was stimulated because stock in the name of a foreigner was not taxed, and as such shares had no vote it increased the capacity of local interests to get control of the bank by buying much less than a majority of the entire capital.

While the United States carried on substantially all its business through the United States Bank, practically the only benefit it obtained by so doing was the dividends on the capital which it held in the bank and the transfer-

ring of money, without charge, from one section of the country to the other.

In the proposed bill the United States will be the beneficiary of all of the earnings of the Reserve Association after dividends are paid on the capital stock, no part of which is furnished by the Government, and which are only in amount about equal to the return made on first class municipal securities. Both the First and Second United States Banks conducted a general banking business, which brought them into active competition with all the existing banks at that time, and as they had the advantage of the Government name and the Government deposits it was natural that they were troublesome competitors and that much of the complaint against them came from the owners and managers of banks which were affected by the competition. The proposition which we make is entirely different in that the Reserve Association shall only carry on business with the Government and its subscribing banks, and only with the latter in cases where the business will inure to the benefit of the subscribing bank itself.

The organization of the early banks produced centralization because the boards of directors of the branches, and their cashiers, were appointed by the board of directors of the Central Bank; while the President of the branches was elected by the board of directors of the branch, as the latter were appointed by the central board entire control of the branch rested with the central organization.

In this bill not only are the boards of directors of the local associations and branches elected by the shareholders of the banks in the territory served by them, but they must be residents of that section, and even the managers of branches, who are appointed by the Governor, must be residents of the section covered by that branch. This insures local government and decentralized control instead of centralized control.

The directors of the First and Second United States Banks declared that they gave the preference, in making loans, to loans secured by collateral over business paper, thus following a policy which would encourage and develop speculation at the expense of commercial affairs. In the plan which we propose not only is every part of it designed to develop commercial affairs, but we prohibit in direct terms the National Reserve Association from loaning on notes secured by collateral, or notes which do not originate as the result of a commercial transaction.

Although the capital of the United States Bank was large, and suitable for the business conditions as they then existed, its specie holdings were always small, and, therefore, it never had a sound basis on which to issue a note currency. The specie basis required for note issues by the Association which we propose is quite as large as that which obtains in European banks of the same character, and will, we believe, be amply sufficient for such purposes.

NATIONAL MONETARY COMMISSION,
WASHINGTON, D. C.

Memberships

State banks & trust Co

Standard reserves

on all classes deposits

Uniform with Nat Banks

Examinations

Reports

Publicity

Do not (subject with the ~~exceptions~~ Langley
business authorized by State
laws

Defects Reserves

Morgan

1. Lack of cohesion or cooperation among the (the units) banks

2 The extravagant + wasteful use of reserve money caused by requirement that each bank must hold individually a fixed and arbitrary proportion of legal tender money divided into as many portions as there are banks

Result that the legal reserve money of the country instead of being massed as elsewhere for the benefit and for protection of all is distributed for the individual but surely ineffective protection of each.

See also 1/23

General scramble for reserves

Greater and accentuated distrust

GRAND HOTEL D'AIX

GUIBERT FRÈRES & GAUDIN

AIX-LES-BAINS

TÉLÉPHONE 0-93

ADRESSE TÉLÉGRAPHIQUE:
GRANOTEL
AIX-LES-BAINS

recent enquiries

Japan
Sweden
Switzerland
Germany

and results
in each case

Kansas City

Character of paper that can be discounted description. agricultural

National Banks have authority have savings departments and loan on real estate.

Wider discount market
— acceptances. more important & discussion than any other
Bills drawn against cotton in transit or in warehouse
better system of issuing
Bills of lading & warehouse receipt
Sure to give an impetus that can be
why banks send their surplus to the development of entire section
to New York to be loaned (secured in not any way)
on Stock Exchange securities
danger of this & effective remedy

Provision for note issues
based upon gold & some paper
free distribution of note
Uniform rate of discount

Washington 605 PM 14 Tuesday

16 940 am Thursday am

Wash. 20

10. 45 — ~~7.50~~ 20

18

1.

1844

Not as important in any
——— sense ——— as that we first are
Not ord Magnitude of interest involved

County
— Vast area ———
— unrivaled Natural resources,
— people —
industrial enterprise
— energetic spirit
— unchallenged
Vast accomplishment

——— National aspect ———
disgrace or honor condition,
progressive laggard, half a century behind all the other
to be taken from as a condition
and placed in the foreground
— when she belongs —

The far reaching consequences of fundamental changes in a monetary system are strikingly stated by S R P in his presentation of the E. B. A. 1844

he said

The adoption by the British for he established a important landmark in monetary legisl

for The proposition we submit greater in magnitude

~~Need to prototype~~

B

Character of the failures and the reasons in each case

Panic, Semi Panic,
unusual or
Seasonal demands.
resulting want of Confidence that is universal

Federation of banks,
Central
State Bank combination ~~&c~~ Examinations,
discipline

535,290
170.000
70.660

Independent Treas off 1000.000.
Eng bank note 650.000.
1.650.000

Treasury officials estimate that the reductions growing out of the elimination of expenses connected with the independent Treasury will amount approximately to one million dollars annually.

The important place which bankers and banking have in the economic development of communities and nations

growing
Importance to modern business of all kinds of credit & banks & banking — important place —

to merchants
& producers
productive forces

The extent of the business of the country
beyond
Mission of the U.S.

Get statistics

Increase in bank clearings
" " banks & banking capital & banking Resources
" " Deposits

Increase in production farming — ~~manufacturing~~ —
for commerce
Internal Commerce — R.R. Mileage

---

due to Nat Bank 1039.500
State " 500.200
Trust Co Svgs 569.
Reserve Agts 38 858
2147.500

due from N Bks 445.400
State 195.7
R Agt 765.7
1407.1

gold certif increase avge 61 per for 10 years

Nat Bk Note inc avg 38 per an for 10 years

"BY APPOINTMENT"

Hotel Bristol

Paris

ADRESSE TELEGRAPHIQUE

BRISTOLOTEL-PARIS

14741 .8

The banks of the country are ~~rapidly becoming~~ fully satisfied of the necessity of closer cooperation. The changes that have taken place in the character of clearing house organization will be discussed later. The clearing house associations were originally organized ~~for~~ for clearing ~~house~~ of checks and to facilitate the exchange of the business of their district. Since 1873 their powers have greatly broadened to include other and more important fields, through the use of clearing house loan certificates and cooperation in other important respects.

NATIONAL MONETARY COMMISSION,
WASHINGTON, D.C.

Custody
Protection
of
Reserves

1* Conservation
Preservation
Mobilization
} of reserves / Reserves
national gold supply

2* note issue
furnishing always
adequate supply
sound safe
currency
responding always
to every legal demand
enlarging & contracting
automatically in
response to demand

2 note issues

Wanted McCulloch book
& Hist of Bank of Indiana
Series address
Wrote Fairbanks
Indianapolis Convention
Kansas

Look up New Orleans

distance eliminated as a factor - Space annihilated -

quote McCulloch Last chapter & End
& compare time

The United States now a world power

whatever happens the world is affected
here, last thirty years

Disagreements between countries affect us
the possibilities of war conflict
want of confidence in our financial
Our securities sent home
found demand for our industries
& trade
forces into use to purchase stocks
& bonds sent back to us

closing

closing

closing

Preston Lamont
Norman Angell book

Market

Banks doing ap ~~[illegible]~~ promoting
business will not be admitted to
membership of the association (German Def)

~~will be powerful in this direction.~~ The organization of ~~the~~ banks in foreign countries to assist in the extension of our international trade. The United States has recently entered upon a career as one of the great powers of the world. ~~Nothing can help us in international trade more than for us to have banking facilities in connections with these foreign countries, and they extend to them the same care in the production of products for their market that we do to those of our own markets. There are a great many agencies which I will not stop to refer to with reference to the extension of our commercial trade, but one of them certainly is to give us banking connections. And secondly, and vastly more important than that, is to give an international character and currency to American bills of~~

I will not attempt to recite the agencies necessary steps to be taken to secure a the healthy extension of our foreign trade but all will agree that provisions for better American banking facilities in other countries is one of the most important of these

The expansion possible by the Reserve Assn

It is limited

(1) By the loaning power of the Reserve Association which is required to keep 50% of its outstanding liabilities on hand in cash

---

it provides against undue expansion by a series of limitations

---

It will start business with we will say of it showed later over all note issue

		assets		liabilities
	Loans	450	150	Cap
750	Cash	800	100	U S
	Bonds	700	500	Banks
			1200	notes
		1950	1950	
		1950	1950	
			350	
			1600	

150
600
750
175
575 + banks + 450 - 150

+ 800

800

2/600
300
150
450

1200
2000
3200.

Again thanking you for your confidence,

I am

Very truly yours,

George F. Baker

Hon. Nelson W. Aldrich,
540 Park Avenue,
New York City.

provision about reserves against
Changes in National banks | Time & Savings Deposits

authority to establish savings
deposit departments

5/ many not do this now
but are placed at a disadvantage
with State banks & Canadian banks
by amt of reserves required (2)

I have stated that the one of the
Principal defects
was to be found in the Method
Method of taxing

NATIONAL MONETARY COMMISSION,
WASHINGTON, D. C.

Membership

Publicity | Examination | reserves

** thorough examinations by local authority, by experts ~~employed by~~ responsible for their fidelity thoroughness parties most interested in the ascertainment of actual con

Stupendous amount involved
deal intelligently and honestly with
Millions in Capital & Surplus
and Millions in aggregate resources
involving daily transaction of Millions
Even these figures ~~which~~ so vast the imagination fails to comprehend give but the faintest idea of the momentous consequences which from crises & suspension

Use magnitude of interests involved *

B

NATIONAL MONETARY COMMISSION,
WASHINGTON, D. C.

Reserves

Treatment of cash reserves

What are reserves & why

Liquid assets

Concentration & Mobilization

Large part of the cash reserves held by individual banks useless

Treatment of reserves generally

B

NATIONAL MONETARY COMMISSION,
WASHINGTON, D.C.

Reserves

Their

Grow out of necessity that a portion of banks assets

* should be kept at all times in a liquid form to meet its demand obligations

* all cannot be

* Experience has shown ~~at a~~ ~~percentage~~ should be kept in ~~actual~~ cash

* and ther portion in quick assets represented by "Cash at call and at short notice" in the english system and in balances in reserve banks in reserve and central reserve cities in our national

Cash $7\frac{1}{2}\%$

Call & short notices 13

* Must be prepared at all times to meet exceptional demands

* in ordinary times withdrawals equal new deposits

2550 / 3500 (13.
2550
9500
6650
850

Close

Now dependent on N. Y.

Alternation inflation exhilaration
Rushing & depression
Paralysis

---

x x
x to make moreover secure &
always really
responsive

---

in actual healthy development

gather practical
Wisdom from the world's experience
adapted to our
present & prospective needs
as a people

Benefits to Banks

to borrowers
To the public to depositors

reserves

enlarge separately safeguards { publicity of condition
examination
and reports

+
Closing

Weak banks — unwilling to submit to
examination or to
disclose their condition
~~to their test~~ will not
become members

Relative advantages

Small banks

now ^entirely dependent on
correspondent banks
this relation will
naturally continue

but confidence will
be given to every
manager of small
banks that is
one ^adequate resource
always available
which can never
fail or suspend

to small banks no clearing house
facilities

* control for [illegible] great
centers

to distant localities

those in process of development

Rl.

The greatest advantage will
surely accrue to sections where
capital and credit are in the
* greatest demand where they are
most important in fact absolutely
necessary to secure development and
prosperity

control

us

GRAND HOTEL D'AIX

GUIBERT FRÈRES & GAUDIN

AIX-LES-BAINS

TÉLÉPHONE 0-93

ADRESSE TÉLÉGRAPHIQUE:
GRANOTEL
AIX-LES-BAINS

An Association of Banks, with a
~~[illegible]~~ concentration & mobilization of
reserves, through which
the resources of all shall
be made available | under proper safeguards
necessary | for the assistance
support of any ~~institution~~ solvent property
or ~~bank~~ of a constituent member
of any community
(Supreme importance of this)

Foreign Especially
German Experience

ALC:

There

Small banks

Sweep to the banks the power to protect
increase & reserves
and granting in their last
& liberal extensions of credit

Shows how increased
how
and how the loaning power
of banks is increased

Methods of preventing
dangers of ~~expansion~~
+ inflation

Wise management

Knowledge thro
Publicity of conditions in
all parts of country

danger signals
when reserves fall below
50%

That this great country may secure in the interest of all of its people of every class and every section that immunity which has been enjoyed by the people of every other commercial nation for half a century (P) and from the disastrous results of monetary panics, and from the acute disturbances and depression in business which take place in anticipation of crises

Separate independent State
or district organ
like clearing houses
or like the district we propose to create
without affiliation or means of co-operation
— Reserve —
2 Military —
like a human organism
without a brain to coordinate
the functions of its members
or heart action to vitalize its
forces.

for

The plan
~~system~~ we propose is
essentially an American system
Scientific in its methods and
democratic in its control

to be accomplished for accomplishment
Purposes and Methods

long periods of depression

The M appreciate the magnitude
of the duties assigned to them

The questions involved
have a vital for the people of the U S of every class
and every section

and they have given to
~~and they have endeavored~~ their discharge
~~discharge~~

Magnitude

We have today to ~~provide for~~ consider the welfare
and prosperity of 90 Millions to
provide a system of a ~~consider~~ the character of ~~that~~ form
of organized credit and that

NATIONAL MONETARY COMMISSION,
WASHINGTON, D. C.

New York

Notwithstanding personal qualities

Serious troubles
largely arising
~~are~~ from limitations and
restrictions imposed
by antiquated obsolete
laws
with reference to the
treatment of reserves

Habits with reference to surplus monies

bad system of ~~currency~~ - note issues

Discount Market

Necessity of broadening base of discount market 3

restrictions partly of law & partly practice with reference to acceptances
Foreign bills

Effects every class
Quote Peel
Narrow question in that case

Reserve 1 21

As I have already stated, one of the principal defects of our banking system grows out of the artificial and unscientific treatment of reserves required by our banking laws. There is universal agreement that a portion of a bank's assets must be kept at all times in liquid form to enable it to meet promptly its demand obligations. With us a certain percentage of its liabilities ~~are~~ is required to be kept in actual cash, and another portion on deposit with reserve agents.

In ordinary times withdrawals of balances are equalized by new deposits; but banking institutions must be prepared at all times to meet exceptional demands, and all well-managed financial institutions have ~~a~~ Keep a reserve in cash and at bank and also a secondary reserve of commercial paper or other quick investment assets that ~~should~~ may be readily convertible into cash. In this country we have had but little serious discussion with reference to the proper char-

(6) Reserves

V 101 (22)

acter and extent of bank reserves; but all must agree that the manner of distribution makes them useless when needed. When we consider that the cash reserves of the banks are necessarily divided into 25,000 widely scattered portions, it is not surprising that they should fail of their purpose and prove useless in time of trouble. Instead of being concentrated, as they are in all other countries, for the effective protection and benefit of any, they are rendered by this distribution ineffective and useless to all. In other countries reserves are regulated, both as to character and extent, by the judgment and custom of managers of banks, and not by legislative provisions.

One trouble arises largely from the absurd limitation prescribed by the national banking law -- a limitation that has been generally followed by legislation in the States --

that not only prevents a bank from giving credit or discounting the paper of its customers, but practically forbids the use of its reserves for the purposes for which they were created whenever and so long as the aggregate of cash and balances falls below the prescribed legal percentage. The effect of this paralysis is disastrous in times of stress. Not only is extension of relief to customers prohibited, but no method is provided for protecting or replenishing the reserves.

In every other commercial nation, deposits by joint stock banks in a central institution are held by custom to be equivalent to a cash reserve; and this balance can always be increased upon reasonable demand by the rediscount of commercial paper of a recognized standard. In all other countries in times of stress or anticipated trouble aid is liberally extended to all solvent customers who have the credit or necessary collateral, and the reserves of the banks

(6) Reserves

are freely used, protected, and increased in the manner I have described.

You are all familiar with our experience in 1907. Before and during the general suspension, individual banks, almost without exception, outside of the great cities, took every means to increase the amount of their cash reserves, as they naturally believed this course was necessary for self-preservation. This scramble for an increase in the cash reserves of the banks from the Atlantic to the Pacific accentuated, if it did not create, panicky conditions.

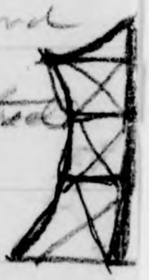
I repeat

It is clear that in times of pressure the scattered cash reserves in the possession of our individual banks are practically useless and ineffective for any of the purposes for which reserves are created.

affecting the country as a whole

These requisite cannot ~~[illegible]~~ properly meet in the opinion of the Commission unless the local and district organization and affiliated ~~and~~ for the exercise of functions of a general national Can exercise no powers not delegated

The same organ ~~good~~



Independent organization.

Takes care of the public credit controlling gold movements
equalizes facilities
Secures uniform discount rate
prevents interruption of domestic exchange
provide for concentration of cash reserves available for use in any ~~[illegible]~~ direction.
makes possible extension of facilities on reasonable terms to partially developed community
Establishes standard

End

In order to afford the assurance, however, that the general interests of the market and of the business community shall be conserved, as well as the interests of the shareholders of the Reserve Association, the latter is brought into close relations with, and responsibility to, the Government and the public. It is required that some of the directors chosen through the mechanism of the shareholders' organization shall be persons who "fairly represent the industrial, commercial, agricultural, and other interests of the country, and who shall not be officers of banks." This insures an infusion of representative business men into the governing board who are under every motive to act in the public interest and not exclusively in the interest of the Reserve Association. Further than this, three of the highest officials of the Government of the United States are made ex officio members of the governing board of the bank—the Secretary of the Treasury, the Secretary of Commerce and Labor, and the Comptroller of the Currency. Still further restraint upon the administration of the bank from narrow or selfish motives is imposed by the requirement that the governor of the Reserve Association shall be selected by the President of the United States from a list submitted by the board of directors.

COOPERATIVE CHARACTER OF THE RESERVE ASSOCIATION.

In providing for the creation of a new organ of American banking, described as the National Reserve Association of the United States, it has been the aim of the Monetary Commission to follow the lines of American social and economic development—the coordination of local organisms into an effective central organ by a system of cooperation and representation. It is in this respect that the plan of the National Reserve Association differs radically from the conception of a central bank upon European models. Its sources of authority are democratic instead of coming exclusively from the State. Instead of overshadowing local banking organizations, it is their representative. So carefully has this principle of representation been guarded in the plan submitted by the Commission that each bank which enters the Reserve Association is permitted exactly the same ratio of ownership in proportion to its capital as every other bank. It can not change this ratio of ownership except by changes in its own capital, and it can not alienate its shares to any other bank or to any individual, firm, or corporation whatsoever. The Reserve Association is thus made the channel through which local banking institutions are to exercise what may be called their federated powers.

— commensurate —
in its power ~~to~~ duties & responsibilities equal to the demands

The commission with a people of characteristics ~~of~~ in material ~~of~~ prosperity

and its natural resources
The U.S. with its vast area and
growth in wealth

rights and interests
are cared for & consider ~~the~~ public and private.
We ~~have to deal with~~ 25.000 banks
with resources of nearly 24.000 Million
of dollars We are required to provide
a monetary system that in its operation
will

Consider
nothing lost
that wise care for all of these or 24.J.
before defects
and respond to

Start (1)

Preliminary about panics and 1907

Amount to be paid in the year

benefits to classes

Close

Does the creation of facilities

Important reason any means abuse

New York Gold necessary

In restrictions discrimination

vast accumulations in other present

Central banks

Purposes

Close

Remedy

Close

Scientific in its methods democratic in its control

Expansion close

Differences

discount International trade

~~Most important~~

Close

System of reservoirs

Reserves

2 Machinery

Discount market

Inter trade

3 Organism human

Govt. retirement channels of trade

4 Republic in finance

dead money no other vitalized

Clearing houses

Standards all kinds

uniform rate

Coordinates of banks

To meet demand Mr.

Co-op about local control

Central

Hierarchy quality of Staples

bill lading warehouses Elevators forms of credit

publicity

about 47½ 1½
45 3
42 4½
about 40 6

8 CN
MONO. SEC.

In this respect the banking system in the United States has lagged behind other organs of the social and economic mechanism. Cooperation of a sort there has always been, through clearing arrangements and the relations of country banks with their city correspondents; yet, in the forcible language of Professor Cooke (Bulletin of the American Economic Association, June, 1911, p. 234):

"There is not one country bank, however small, that has assurance that any correspondent, however large, is powerful enough to save it if it needs saving in a general panic."

Obviously, this principle of cooperation and coordination follows in its essential outlines the reform which has been often recommended by some of the greatest names in American banking—the legal recognition of the clearing houses as organs of mutual protection. The great benefits of the cooperation of the banks through their local clearing houses have been so often demonstrated in periods of panic that the subject does not call for elaboration. In every important crisis of recent years, when the legal machinery for transferring credit has broken down from insufficiency of the currency supply, or has ceased to operate effectively by reason of the rigidity of its parts, the clearing houses have stepped into the breach and have created a form of currency, temporary in its character, but which has supplemented the defects of law and permitted the carrying on of exchanges. First issued in 1860, to an amount in New York of $7,375,000, issues of clearing-house certificates attained a maximum throughout the country in the crisis of 1907 of about $260,000,000, exclusive of other temporary substitutes for currency.

What is sought in effect by the plan for the National Reserve Association is to give legality, system, and efficiency of detail to this method of self-protection by the banks which has emerged from the occasional breakdown of the legal machinery of banking. Careful consideration of the subject, however, has made it apparent that the system of mutual protection adopted temporarily in periods of crisis through the clearing-house system must be modified in at least three important particulars, in order to make it effective for meeting the requirements

MONETARY - SPECIAL.

Recommendations Comptroller Currency amendments National Banking Laws.

PUBLIC DOCUMENT.
FREE.
U. S. SENATE.

Nelson W. Aldrich
U. S. S.

RHODE ISLAND.

[1909]

AMENDMENTS SUGGESTED TO THE NATIONAL BANK ACT, WITH-FOOT NOTES EXPLAINING WHY THE AMENDMENTS ARE NECESSARY.

Section 327. "There shall be in the Bureau of the Comptroller of the Currency ~~a~~ two Deputy Comptrollers of the Currency, to be appointed by the Secretary of the Treasury, who shall each be entitled to a salary of ~~two~~ three thousand five hundred dollars a year and who shall possess the power and perform the duties attached by law to the office of Comptroller during a vacancy in the office or during the absence or inability of the Comptroller. The Deputy Comptrollers shall also take the oath of office prescribed by the Constitution and laws of the United States, and shall each give a like bond in the penalty of fifty thousand dollars. "

(Note: There are now two deputy Comptrollers, one appointed by the Secretary of the Treasury, and the other appointed by the President and confirmed by the Senate. The one appointed by the Secretary of the Treasury receives $3,500 a year; the one appointed by the President receives $3,000 a year. The situation is anomalous, to say the least. There should be two Deputy Comptrollers, each receiving the same salary; each an appointee of the same appointing power; their work assigned to them by the Comptroller of the Currency, and changed, if need be, from time to time, so that each of the Deputies shall be familiar at all times with the work of the Bureau.)

Section 885. "~~Copies~~ A copy of the ~~organization certificate of any national banking association~~, certificate of the Comptroller of the Currency authorizing any national banking association to begin the business of banking, duly certified by the Comptroller of the Currency, and authenticated by his seal of office, shall be evidence in all courts and places within the jurisdiction of the United States of the existence of the association, and of every matter which could be proved by the production of the original certificate".

(Note: When banks are engaged in private litigation they call upon the Comptroller of the Currency for certified copies of the papers which will prove their corporate existence, and when there are criminal prosecutions of bank officers or other persons, the U. S. District Attorneys make the same request. Much time of the clerks is taken up in making these certified copies, to the detriment of the current work of the Bureau.

The Government receives no fee for making these certified copies. The paper usually called for to prove the corporate existence is the organization certificate, which is very often a very voluminous document, with many signatures which cannot be read. Quite generally the Courts in recent years have accepted a copy of the certificate of the Comptroller authorizing the banks to begin the business of banking. This certificate recites that "evidence has been presented to the Comptroller that the association has complied with all the provisions of the statutes of the United States required to be complied with before an association shall be authorized to begin the business of banking, and that it has been authorized to begin business". A certified copy of this paper can be made in a few minutes, and if this section is amended so as to make this Certificate legal evidence of the existence of the corporation, it will save the time of clerks in the Comptroller's office, as well as getting the certified copies promptly to those who want them.

As stated above, this certificate is now generally received by the Courts as evidence of the bank's existence, but it is desirable to have the statute expressly state that it shall be so received.)

Section 5140. At least fifty per centum of the capital stock of every association shall be paid in cash pro rata by the shareholders listed in the organization certificate or their duly authorized assignees 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 whole 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 of the Currency to commence business; and the payment of each installment shall be certified to the Comptroller, under oath, by the president or cashier of the association.

(Note: Up to a few months ago the office received a certificate stating that fifty per cent of the capital had been paid in, but did not inquire who paid the instalment on the capital. As a matter of fact, very often the stockholders named in the organization certificate were merely figure-heads, and had not paid a penny for the stock which stood in their names, but the instalments were paid by promoters, acting individually or as a corporation. These promoters very often took the stock in a block, and paid for it, and then sold it whenever and wherever they could, frequently and almost always at a premium, which the promoters themselves took as compensation for their work. The law contemplates that the stockholders themselves should pay for the stock, and that they should not be named in the organization certificate as stockholders when they are not such, either directly or indirectly.

The practice of the office now is that the stockholder must pay his pro rata assessment on the stock, which has broken up the bad practice heretofore complained of, and the Comptroller asks that the statute be made to conform to this practice, which is having a good effect.)

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

(Note: This section is construed as relating to the payment of instalments subsequent to the payment of the first fifty per cent. When a bank is organized subscribers to the stock agree to pay fifty per cent of their original subscription, at a definite period, and the subsequent installments as provided by law, that is at least ten per cent each month, subsequent to the date of the certificate authorizing the bank to begin business. Ten days is regarded as sufficient time subsequent to the date on which an installment is due, to enable a shareholder to pay his installment. As the subscribed stock subsequent to the issue of the certificate authorizing a bank to begin business, has a book value of at least fifty per cent, the sale of shares by reason of failure to pay subsequent installments is attended with no difficulty, and in practice no case has ever come to the knowledge of this office when it has not been possible so to dispose of the delinquent shares. This being the case, authority to deduct the shares from the capital stock should be revoked, as such deduction might reduce the capital below the minimum required by law and thereby necessitate proceedings to forfeit the charter.

In line with the other provisions of the law, the last clause is added, providing that if forfeited shares are not sold within the time specified, a receiver may be appointed.

The only change made is reducing the time of notice of sale of delinquent stock from 21 to 10 days, and giving power to appoint a redeiver in case the stock cannot be disposed of.)

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

~~Section 1 of the Act of May 1, 1886.~~

That any national banking association may, with the approval of the Comptroller of the Currency, by the vote of shareholders owning two-thirds of the stock of such association, increase its capital stock, in accordance with existing laws, to any sum approved by the said Comptroller, notwithstanding the limit fixed in its original articles of association and determined by said Comptroller; and no increase of the capital stock of any national banking association either within or beyond the limit fixed in its original articles of association shall be made except in the manner herein provided. In case an increase in capital stock is made for the purpose of acquiring the business of another bank, the additional shares may be sold by the directors at not less than par to persons other than shareholders if such sale is authorized by vote of shareholders representing not less than two-thirds of the stock of the association, taken at the meeting at which the increase in capital stock is authorized.

(Note: This amendment strikes out language of original section , now obsolete, and substitutes as section 5142, the Act of May 1, 1886, under which we are operating.

At common law and under the articles of association of national banks generally, the right of shareholders is recognised to participate pro rata in any increase of capital. In many cases the capital of a national bank is increased for the purpose of acquiring the business of another bank, and it is desired to issue a portion of the new stock to those interested in the absorbed bank. It is therefore suggested that the law be so amended to authorize such disposition of increased stock under authority of a resolution adopted by the same vote by which the increase is approved.).

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

(Note: This section relates to the rights of shareholders to vote, etc., and provides in part that any shareholder whoseliability is past due and unpaid shall not be allowed to vote. The meaning of this clause has been open to question, but it is held by the Circuit Court of the United States in the case of United States vs. Barry that the words "liability past due and unpaid" refers only to unpaid subscriptions for stock. This is assumed to be the intent of the statute, and should be so written into the law. Elsewhere in the law a "director" is held to be an "officer", and is so characterized in the case of U. S. vs. Means, (42 Fed. Rep. 599), but to avoid question should be written into this section.)

Section 5147. Each director, when appointed or elected, shall take an oath that he will, so far as the duty devolves on him, diligently and honestly administer the affairs of such association, and will not knowingly violate, or willingly permit to be violated, any of the provisions of this Title, and that he is the owner in good faith, and in his own right, of the number of shares of stock required by this Title, subscribed by him, or standing in

his name on the books of the association, and that the same is not hypothecated or in any way pledged as security for any loan or debt. Such oath, subscribed by the director making it, and certified by ~~the officer before whom it is taken~~ a judge of any court of record or notary public, shall be immediately transmitted to the Comptroller of the Currency, and shall be filed and preserved in his office. If such oath is not taken and transmitted to the Comptroller of the Currency within thirty days after the election or appointment of a director, a vacancy shall be deemed to have been created which shall be filled as provided by Section fifty-one hundred and forty-eight of the Revised Statutes of the United States.

(Note: The law requires directors to take oath but fails to provide the officer before whom the oath may be taken. This amendment supplies that omission and also fixes a time limit of 30 days in which to qualify. Vacancies in many instances exist for an entire year, - a condition requiring correction. The 30 day limitation may be met by renewal of appointment by the board, in the few extraordinary cases which may arise by illness or absence from the country; but except in the rarest cases, 30 days is amply sufficient time in which to fill vacancies.)

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

(Note: The only addition to this section is the words "By mail or", As a matter of fact, wherever notice has to be given, the bankers say that notice by mail is much more effective. It is almost universally preferred by the banks. This simply gives permission to give the notice either way.)

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

(Note: The law of 1864 provided that the directors shall elect one of their number as president of the association. Revised Statutes read "of board", making it a question as to whether there may not be two presidents - one of the bank and the other of the board. This amendment leaves no ground for dispute.)

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

Any corporation organized under authority of any act of Congress or under the laws of any of the states of this Union, which in fact purchases, or acquires as owner, stock of a national banking association, or which knowingly permits stock of a national banking association to stand in its name as owner on the books of such association, shall be liable, as other shareholders, for all contracts, debts and engagements of such national banking association, notwithstanding its lack of power to purchase, acquire or hold such stock.

(Note: The Supreme Court of the United States has frequently held that when a corporation has no power to invest its funds in the stock of a national bank, if it actually does so it cannot be held liable for the assessment against it as a shareholder. It makes no difference how long the stock may have been held, what amount of dividends the corporation may have received, nor what part it may have taken in directing the affairs of the national bank. The law is applicable, also, to national banks holding stock as an investment of their funds in another national bank. Prior to the first decision of the Supreme Court of the United States, three United States circuit courts of appeals had held that under such circumstances the corporation was liable, notwithstanding it had exceeded its powers by making such investment.

The result of the ruling of the Supreme Court places a premium upon the illegal exercise of powers by a corporation. All national banks and most corporations under state laws have the right to acquire stock in a national bank, provided it is accepted in good faith to realize upon a loan of money previously made. That a corporation may deliberately purchase stock in a national bank, dictate the policy of the national bank, accept dividends for years, and escape all liability when the national bank becomes insolvent, is an evil imperatively calling for a remedy, and unless corporations are prohibited from owning stock in a national bank as hereinbefore recommended, the law should be amended making corporations liable to assessment the same as individuals.)

Section 5154. Any bank incorporated by special law, or any banking institution organized under a general law of any State or organized territory, may become a national association under this Title by the name prescribed in its organization certificate; and in such case the articles of association and the organization certificate may be executed by a majority of the directors of the bank or banking institution; and the certificate shall declare that the owners of two-thirds of the capital stock have authorized the directors to make such

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

(Note: The insertion of "or organized territory", follows the construction of the law by the Department of Justice. The language stricken out , is demanded by the court decisions that a national bank cannot invest in the stock of other corporations. The exemption was mainly in the interest of New England banks, holding stock in the National Bank of Redemption, Boston, now out of existence.)

Section 5155. It shall be lawful for any bank or banking association organized under State laws, and having branches, the capital being

joint and assigned to and used by the mother-bank and branches in definite proportions, to become a national banking association in conformity with existing laws, and to retain and keep in operation its branches, or such one or more of them as it may elect to retain; the amount of the circulation redeemable at the mother-bank, and each branch, to be regulated by the amount of capital assigned to and used by each. The provisions of this section shall not apply in the case of the conversion of a state bank into a national banking association subsequent to the date of the passage of this act.

(Note: A provision has been added to this section, making it unlawful for a state bank having branches to convert into the national system, and carry over the branches and operate them under the national system as branches. It has been held by all the Comptrollers that it is unlawful under the national bank act for a national bank to have branches, and it will be obviously unfair to the seven thousand national banks now in the system to allow a state bank with branches to convert to the national system and carry over its branches at the time of the conversion. We would then have some national banks with branches, legally operating them, and very many others which could not have them.)

Section 5159. Every association, after having complied with the provisions of this Title, preliminary to the commencement of the banking business, and before it shall be authorized to commence banking business under this Title, shall transfer and deliver to the Treasurer of the United States as security for its circulating notes, any United States registered bonds, bearing interest, to ~~an~~ the amount ~~not less than thirty thousand dollars and not less than one third of the capital stock paid in.~~ of fifty thousand dollars, except that banks with capital of one hundred and fifty thousand dollars or less shall only be required to deposit bonds to the extent of one-fourth of capital stock. Such bonds shall be received by the Treasurer upon deposit and shall be by him safely kept in his office, until they shall be otherwise disposed of, in pursuance of the provisions of this Title.

(Note: The omitted words are held to be modified by the acts of June 20, 1874, and July 12, 1882. Section 4, act of June 20, 1874, which follows section 5167, provides in part that the amount of bonds on deposit for circulation shall not be reduced below $50,000. This determines the amount of bonds required to be deposited by banks organizing with capital stock over $150,000.

Banks having a capital of $150,000, or less, are not required to keep on deposit bonds in excess of one-fourth of the capital stock as security for their circulating notes, by act of July 12, 1882, chapter 290, section 8. This change will make the law clear, but does not change existing law.)

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

(Note: The explanation of necessity for the indicated amendments to this section is contained in the memorandum following section 5169.)

Section 5168. Whenever a certificate is transmitted to the Comptroller of the Currency, as provided in this Title, and the association transmitting the same notifies the Comptroller that at least fifty per centum of its capital stock has been duly paid in pro rata by shareholders listed in the organization certificate or their assignees, and that such association has complied with all the provisions of this Title required to be complied with before an association shall

be authorized to commence the business of banking, the Comptroller shallexamine into the condition of such association, ascertain especially the amount of money paid in on account of its capital, the name and place of residence of each of its directors, and the amount of the capital stock of which each is the owner in good faith, and generally whether such association has complied with all the provisions of this Title required to entitle it to engage in the business of banking; and shall cause to be made and attested by the oaths of a majority of the directors, and by the President or cashier of the association, a statement of all the facts necessary to enable the Comptroller to determine whether the association is lawfully entitled to commence the business of banking.

(Note: The explanation of the necessity for the indicated amendment to this section follows Section 5140, both amendments being in the same line..)

Section 5172. In order to furnish suitable notes for circulation, the Comptroller of the Currency shall, under the direction of the Secretary of the Treasury, cause plates and dies to be engraved, in the best manner to guard against counterfeiting and fraudulent alterations, and shall have printed therefrom, and numbered, such quantity of circulating notes, in blank, of the denominations of five dollars, ten dollars, twenty dollars, fifty dollars, one hundred dollars, five hundred dollars, one thousand dollars, and ten thousand dollars, as may be required to supply the associations entitled to receive the same. Such notes shall state upon their face that they are secured by United States bonds or other securities, certified by the written or engraved signatures of the Treasurer and Register and by the imprint of the seal of the Treasury. They 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 or assistant cashier. The Comptroller of the Currency, acting under the direction of the Secretary of the Treasury, shall as soon as practicable cause to be prepared circulating notes in blank, registered and countersigned, as provided by law,

to an amount equal to fifty per centum of the capital stock of each national banking association; such notes to be deposited in the Treasury or in the sub-treasury of the United States nearest the place of business of each association, and to be held for such association, subject to the order of the Comptroller of the Currency, for their delivery as provided by law; Provided, That the Comptroller of the Currency may issue national-bank notes of the present form until plates can be prepared and circulating notes issued as above provided: Provided, however, That in no event shall bank notes of the present form be issued to any bank as additional circulation provided for by this act.

(Note: The desirability of permitting circulating notes to be signed by an assistant cashier is evidenced by the experience of this office, as it frequently occurs that the cashier of a bank is temporarily absent from the bank, or that there is a vacancy in the cashiership.)

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

(Note: The Comptroller having no control over the plates and dies used in preparing circulating notes, but these instruments being in the custody of the Director of the Bureau of Engraving and Printing, who is subject to the supervision of the Secretary of the Treasury, the necessity for the amendment in question is apparent.)

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

(Note: The suggested amendments do not change the existing law, but if the proposed amendments to the act of July 12, 1882, relating to the extension of corporate existence of national banks are adopted, one of which eliminates section 6 of that act, the sentence therein providing that -"Any gain that may arise from the failure to present such circulating notes for redemption shall inure to the benefit of the United States" should be retained; and, as indicated, added to section 5184.)

(Note: Sections 5185, 5186, and the Act of February 14, 1880, related to banks issuing gold notes. These two sections, and the Act of February 14, 1880, are now entirely obsolete and should be repealed, as there are now no gold currency banks in existence. There were ten organized, but they have all either been liquidated or converted to currency banks.)

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

(Note: If sections 5185, 5186 and the Act of February 14, 1880, are repealed, the saving clause in this section in favor of banks organized for the purpose of issuing gold notes should be stricken out. If, however, sections 5185, 5186 and the Act of February 14, 1880, are not repealed, then this section should be left as it is.)

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

(Note: The existing law permits the directors of an association to declare a dividend semi-annually, and only requires an addition to the surplus fund from the profits of the bank earned during the preceding six months. As it is the custom of many banks to declare dividends at varying intervals, the first amendment suggested is deemed desirable. As a bank frequently passes dividends, carrying all net earnings to the undivided profit account, it seems desirable to require the transfer to the surplus fund of ten per cent of the net profits for the period covered by the dividend.)

Section 5205. Every association which shall have failed to pay up its capital stock, as required by law, and Every association whose capital stock shall have become impaired by losses or otherwise, shall, within three months thirty days after receiving notice thereof from the Comptroller of the Currency, pay the

deficiency in the capital stock, by assessment upon the shareholders pro rata for the amount of capital stock held by each; and the Treasurer of the United States shall withhold the interest upon all bonds held by him in trust for any such association, upon notification from the Comptroller of the Currency, until otherwise notified by him; and the board of directors upon receipt of such notice of impairment of capital are hereby required immediately to notify in writing each and every shareholder of the association of such impairment and of the amount of such shareholder's pro rata share of the assessment necessary to make good the deficiency in the capital stock, and in the same notice shall call a meeting of the shareholders to be held within fifteen days from the date of such notice for the purpose of determining whether the deficiency in the capital stock shall be paid in or the bank placed in voluntary liquidation. If any such association shall fail to pay up its capital stock, and shall refuse to go into liquidation as provided by law, for three months thirty days after receiving notice from the Comptroller, a receiver may be appointed to close up the business of the association, according to the provisions of section fifty-two hundred and thirty-four: And provided, That if any shareholder or shareholders of such bank shall neglect or refuse, after ~~three months~~ receiving notice, to pay the assessment, as provided in this section, it shall be the duty of the board of directors to cause a sufficient amount of the capital stock of such shareholder or shareholders to be sold at public auction (after ~~thirty~~ ten days' notice within the thirty day period hereinbefore prescribed shall be given by posting such notice of sale in the office of the bank, and by publishing such notice in a newspaper of the city or town in which the bank is located, or in a newspaper published nearest thereto) to make good the deficiency, and the balance, if any, shall be returned to such delinquent shareholder or shareholders. The provision in respect to calling meetings of shareholders to determine whether the deficiency in capital stock shall be paid in shall not be held to conflict with other existing provisions of law or with the articles of association in respect to

calling meetings of shareholders for other purposes.

(Note: There is an inconsistency between this provision of law and Section 4 of the Act of June 30, 1876. While the former requires the capital to be made good within three months in order to escape a receivership, the latter requires the stock of any shareholder who fails to pay his proportion of the assessment within that time to be advertised for a further period of thirty days after the expiration of the three months before it can be sold by the directors to make good the deficiency. The directors cannot, therefore, enforce payment of the assessment on delinquent stock under four months from the date of receipt of notice of impairment.

These provisions of law are also frequently responsible for the unsatisfactory conditions which are found to exist in banks which the Comptroller is powerless to correct. Pending the collection of an assessment to make good an impairment of capital, the association remains in the hands of the same management responsible, in many instances, for the losses, either through incompetency, speculation or otherwise. Depositors continue to put their money in the bank to be loaned or invested and perhaps lost or imperiled in a like manner.

Section 5209. Every president, director, cashier, teller, clerk, or agent of any association, who embezzles, abstracts, or wilfully misapplies any of the moneys, funds, or credits of the association; or who, without authority from the directors, issues or puts in circulation any of the notes of the association; or who, without such authority, issues or puts forth any certificate of deposit, draws any order or bill of exchange, makes any acceptance, assigns any note, bond, draft, bill of exchange, mortgage, judgment, or decree; or who makes any false entry in any book, 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 the Comptroller of the Currency, or any agent appointed to examine the affairs of any such association; and every person who with like intent aids or abets any officer, clerk, or agent in any violation of this section, shall be deemed guilty of a misdemeanor, and shall be imprisoned not less than five years nor more than ten.

(Note: This section makes it a misdemeanor for any officer or employe of a bank to make any false entry in any book, report, or statement of the association with the intent to deceive any officer of the association, or any agent appointed to examine the affairs of the association.

In some instances, United States Attorneys and the courts have held that it is not a violation of this section for a bank officer to make a false report of condition to the Comptroller of the Currency, inasmuch as the Comptroller of the Currency is not mentioned in the section.)

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

(Note: Banks are requested to make their reports in duplicate and to retain a copy for the files in order that the examiner may verify it with the books at the subsequent examination. Duplicate report blanks are sent to each bank at the time of a call. Many banks neglect or refuse toretain a copy. Many others retain only an incomplete or imperfect copy. In such cases, the examiner has no means of checking up the report with the books.

In a number of instances where banks have failed and a copy of the original report on file in the Comptroller's office has been sent to the examiner or receiver, and compared by him with the books, deliberate falsifications have been shown. In other cases the bank's retained copy agreed with

the books but did not agree with the report furnished the Comptroller. The bank officer in such cases responsible for the falsification, knowing that the examiner would verify the retained copy of the report with the books, made it correspond with the records of the bank, but assuming that the examiner was not likely to compare the retained copy with the original report made to the Comptroller, deliberately falsified the latter.

If the law were amended to require the banks to execute their reports in duplicate and to send both to the Comptroller of the Currency, one copy could be sent by the Comptroller to the examiner for comparison with the books at the time of the subsequent examination. This would impose very little labor upon the bank, and under this arrangement the certainty of detection of any falsification of a report would act as a deterrent upon the bank officer disposed to practice a criminal deception of this character upon the Comptroller.)

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

(Note: The changes suggested are necessary, as under the law no report of earnings is required unless a dividend is declared. Reports should be made at all dividend periods, regardless of the disposition of the earnings.)

Section 5213. Every association which fails to make and transmit any report required under either of the two preceding sections or proof of publication of the report of condition required by section 5211, shall be subject to a penalty of one hundred dollars for each day after the periods, respectively, therein mentioned, that it delays to make and transmit its report and proof of publication. Whenever any association delays or refuses to pay the penalty herein imposed, after it has been assessed by the Comptroller of the Currency, the amount thereof may be retained by the Treasurer of the United States, upon the order of the Comptroller of the Currency, out of the interest, as it may become due to the association, on the

bonds deposited with him to secure circulation. All sums of money collected for penalties under this section shall be paid into the Treasury of the United States.

(Note: As the law requires reports to be published, and the submission of proof of such publication, penalty should be imposed for failure to comply with the law, in whole or in part.)

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

Any two or more national banking associations located in the same State, Territory, or District, are hereby authorized to consolidate in the manner following:

The respective boards of directors of the associations interested shall enter into and make an agreement under their corporate seals for the consolidation, prescribing the terms and conditions thereof and the mode of carrying it into effect. This agreement shall be submitted to the shareholders of each association at a meeting duly called, as provided by their articles of association, and if such agreement shall be ratified by a vote of shareholders of each association representing at least two-thirds of the stock, the consolidation shall be in force and effect when formally approved by the Comptroller of the Currency. Certified copies of the agreement entered into by the respective boards of directors and of the vote of ratification shall be filed with the Comptroller of the Currency. If, from the evidence submitted to the Comptroller, it shall appear that the foregoing pro-

visions of this act have been complied with, and if upon special examination, made for the purpose, the expense of which shall be borne by the banks, or if otherwise it is found that the condition of the banks is satisfactory, he shall issue his certificate of approval of the consolidation.

An association which is consolidated with another national banking association shall not be required to deposit lawful money for the redemption of its outstanding circulation, but its assets and liabilities of every nature shall be assumed by and become the assets and liabilities of the association with which it is consolidated; and all the rights, franchises and interests of the said association so consolidated in and to every species of property, real, personal and mixed, and choses in action thereto belonging, shall be deemed to be transferred to and vested in such association into which it is consolidated without any deed or other transfer, and the said consolidated association shall hold and enjoy the same and all rights of property, franchises and interest in the same manner and to the same extent as was held and enjoyed by the association so consolidated therewith.

The authorized and paid in capital of the associations to be consolidated shall be the capital of the continuing association and the latter shall require the surrender of the certificates of stock held by each shareholder in the closed association and issue, in lieu thereof, its own certificates.

A full and correct list of the names, residences, and number of shares of the shareholders of the consolidated association, verified by the oath of the president or cashier, shall be transmitted to the Comptroller within sixty days from the date of the issue of his certificate authorizing the consolidation.

If any shareholder in either association, not consenting to the consolidation, shall object thereto and give notice in writing to the directors of the consolidated association within thirty days from the date of the issue of the certificate of the Comptroller of the Currency authorizing the consolidation,

he shall be entitled to be paid the surrender value of the shares of stock standing in his name on the books of the bank.

If the amount tendered by the directors, in payment of said shares, is not satisfactory to the dissenting shareholder, he may, within thirty days from the date of such tender appeal to the Comptroller of the Currency who shall forthwith determine, by appraisal, the value of the stock and said determination shall be final and binding. The expenses incident to the appraisal by the Comptroller shall be paid by the consolidated bank in case the appraised value exceeds the sum tendered by the directors, otherwise the expense shall be borne by the appellant. The shares surrendered by the dissenting shareholder, when paid, shall be sold by the directors at not less than par, in cash, at public or private sale to the highest bidder, within ninety days from date on which the said shares are acquired.

Notice of consolidation shallbe published for a period of two months in a newspaper of general circulation published in the City of New York, and also in a newspaper published in the city or town in which the banks are located, or if no newspaper is there published, then in a newspaper published nearest thereto. Evidence of such publications of notice shall be made to the Comptroller in the form which shall be prescribed by him.

(Note: Section 5223 recognizes the right of national banks to consolidate, but fails to provide the course necessary to pursue. From the beginning of the national banking system the Comptrollers of the Currency have held that to effect consolidation the liquidation of one of the banks interested, and a contract entered into for the transfer of assets off-setting liabilities assumed, are necessary. If shareholders interests are to be continued, it becomes necessary for the absorbing bank to authorize an increase of capital, shareholders to waive their rights to participate in the increase in order that the increased stock may be sold to those interested as stockholders in the liquidated association.

This waiver is often difficult, if not impossible, to obtain, and in every case requires a personal appeal to each shareholder. Where the waiver is not unanimous the stock interests of all cannot be properly conserved.

It is believed that the section as amended will permit the consolidation of banks in the manner contemplated by the framers of the law.)

Section 5240. The Comptroller of the Currency, with the approval of the Secretary of the Treasury, shall, as often as shall be deemed necessary or proper, appoint a suitable person or persons to make an examination of the affairs of every banking association, who shall have power to make a thorough examination into all the affairs of the association, and, in doing so, to examine any of the officers and agents thereof on oath; and shall make a full and detailed report of the condition of the association to the Comptroller. That all persons appointed to be examiners of national banks not located in the ~~redemption cities specified in section five thousand one hundred and ninety-two of the Revised Statutes of the United States,~~ reserve cities or central reserve cities, or in any one of the States of Oregon, California, ~~and~~ Nevada, Washington, North Dakota, South Dakota, Colorado, Montana, Idaho, Wyoming, and Utah, or in the Territories, shall receive compensation for such examination as follows: For examining national banks having a capital less than one hundred thousand dollars, twenty dollars; those having a capital of one hundred thousand dollars and less than three hundred thousand dollars, twenty-five dollars; those having a capital of three hundred thousand dollars and less than four hundred thousand dollars, thirty-five dollars; those having a capital of four hundred thousand dollars and less than five hundred thousand dollars, forty dollars; those having a capital of five hundred thousand dollars and less than six hundred thousand dollars, fifty dollars; Those having a capital of six hundred thousand dollars and over, seventy-five dollars; which amounts shall be assessed by the

Comptroller of the Currency upon, and paid by, the respective association so examined; ~~and shall be in lieu of the compensation and mileage heretofore allowed for making said examinations.~~ Provided, That the Comptroller of the Currency, with the approval of the Secretary of the Treasury, may assess and collect in like manner an additional amount based upon a percentage of the average gross assets of any such bank as shown by its five reports of condition for the preceding year whenever the rate of assessment based upon capital stock, as hereinbefore provided, shall be deemed inadequate compensation for the services rendered. And persons appointed to make examinations of national banks in the reserve cities or central reserve cities ~~named in section five thousand one hundred and ninety-two of the Revised Statutes of the United States~~, or in any one of the States of Oregon, California, ~~and~~ Nevada, Washington, North Dakota, South Dakota, Colorado, Montana, Idaho, Wyoming, and Utah, or in the Territories, shall receive such compensation as may be fixed by the Secretary of the Treasury, upon the recommendation of the Comptroller of the Currency, ~~; and the same shall be assessed and paid in the manner hereinbefore provided~~ which amounts shall be assessed by the Comptroller of the Currency upon, and paid by, the respective association so examined. But no person ~~shall be~~ appointed ~~to examine the affairs of any banking association of which he is a director or other officer~~, as a national bank examiner shall during his term of office as such, be a director, other officer, or shareholder of any national bank, or be indebted, either directly or indirectly, to any national bank, or hold any public ~~or private~~ office of trust or profit, and the Comptroller of the Currency may require of any person so appointed such bond and security as he deems proper.

(Note: The amendments suggested do not materially change existing law, except to the extent of authorizing an additional fee based on gross assets of banks where the fee based on capital is not commensurate with the work performed; prohibiting examiners from owning stock in, or bor-

rowing from, national banks, and from being an officer or director of a national bank, or from holding any public or private office; and authorizing the Comptroller to require bonds of the examiners.)

Section 5242. -- All transfers of the notes, bonds, bills of exchange, or other evidences of debt owing to any national banking association, or of deposits to its credit; all assignments of mortgages, sureties on real estate, or of judgments or decrees in its favor; all deposits of money, bullion, or other valuable thing for its use, or for the use of any of its shareholders or creditors; and all payments of money to either, made after the commission of an act of insolvency, or in contemplation thereof, made with a view to prevent the application of its assets in the manner prescribed by this chapter, or with a view to the preference of one creditor to another, except in payment of its circulating notes, shall be utterly null and void; and no attachment, injunction or execution, shall be issued against such association or its property before final judgment in any suit, action, or proceeding, in any State, county, or municipal court; Provided, That every sale, gift and transfer of stock made by a shareholder of a national bank when the bank is insolvent, with intent to evade his liability as a shareholder, to one who is insolvent or unable to respond to an assessment, shall be utterly null and void as against creditors of the bank or a receiver appointed by the Comptroller of the Currency, and the shareholder shall remain liable for all debts, contracts and engagements of the bank to the same extent and in the same manner as if such sale, gift or transfer had not been made.

(Note: Made to meet insuperable difficulties realized in enforcing liability after fraudulent transfers, under rule of liability imposed by the Supreme Court of the United States in Dewey v. McDonald, 202 U. S.,510.)

Act June 30, 1876.

Section 1. That whenever any national banking association shall be dissolved, and its rights, privileges, and franchises declared forfeited, as prescribed in section fifty-two hundred and thirty-nine of the Revised Statutes of the United States, or whenever any creditor of any national banking association shall have obtained a judgment against it in any court of record, and made application, accompanied by a certificate from the clerk of the court stating that such judgment has been rendered and has remained unpaid for the space of thirty days, or whenever the Comptroller shall become satisfied of the insolvency of the national banking association, he may, after due examination of its affairs, in either case, appoint a receiver who shall proceed to close up such association, and enforce the personal liability of the shareholders, as provided in section fifty-two hundred and thirty-four of said statutes.

Suit may be brought by the receiver of an insolvent national bank against a shareholder, to recover upon his liability for an assessment levied by the Comptroller, at any time within six years after the assessment becomes due and payable, and not thereafter.

(Note: There is no statute of limitations in the federal statutes applying to such suits. The courts have held that the statutes of the state where the suit is instituted are applicable. These are of difficult application on account of the nature of the suit and the uncertainty of the statutes, which were not enacted with such suits in view. Much expensive litigation has been incurred in obtaining construction of state statutes applicable to such suits. Under these statutes the period of limitation varies from one year to ten years or longer.

It is the custom of the Comptroller to levy the assessment, usually making it payable in installments . Under the statute as proposed, suit could be brought within six years after an installment became due and payable and the statutes of limitations in the state where suit is brought would not be applicable.)

Section 1 of the Act of July 12, 1882. That any national banking association organized under the acts of February twenty-fifth, eighteen hundred and sixty-three, June third, eighteen hundred and sixty-four, and February fourteenth,

eighteen hundred and eighty, or under sections fifty-one hundred and thirty-three, fifty-one hundred and thirty-four, fifty-one hundred and thirty-five, fifty-one hundred and thirty-six, and fifty-one hundred and fifty-four of the Revised Statutes of the United States, may, at any time within the ~~two years~~ six months next previous to the date of the expiration of its corporate existence under present law, and with the approval of the Comptroller of the Currency, to be granted, as hereinafter provided, extend its period of succession by amending its articles of association for a term of not more than twenty years from the expiration of the period of succession named in said articles of association, and shall have succession for such extended period, unless sooner dissolved by the act of shareholders owning two-thirds of its stock, or unless its franchise becomes forfeited by some violation of law, or unless hereafter modified or repealed.

Section 2 of the Act of July 12, 1882. That such amendment of said articles of association shall be authorized by the ~~consent in writing~~ vote of shareholders owning not less than two-thirds of the capital stock of the association, taken at a meeting duly called and held within the period of six months next preceding the date of expiration of the corporate existence of the association; and the board of directors shall cause such ~~consent~~ vote to be certified under the seal of the association, by the president or cashier, to the Comptroller of the Currency, accompanied by an application made by the president or cashier for the approval of the amended articles of association by the Comptroller; and such amended articles of association shall not be valid until the Comptroller shall give to such association a certificate under his hand and seal that the association has complied with all the provisions

required to be complied with, and is authorized to have succession for the extended period named in the amended articles of association.

Sec. 5. That when any national banking association has amended its articles of association as provided in this act, and the Comptroller has granted his certificate of approval, any shareholder not ~~assenting to~~ voting for such amendment may give notice in writing to the directors, within thirty days from the date of the certificate of approval, of his desire to withdraw from said association, in which case he shall be entitled to receive from said banking association the value of the shares so held by him, to be ascertained by an appraisal made by a committee of three persons, one to be selected by such shareholder, one by the directors, and the third by the first two; the expense of such appraisal to be borne equally by the withdrawing shareholder and the bank, ~~and in case the value so fixed~~ In case the directors fail to appoint a member of the Committee or the committee fails to ascertain the value of the shares within thirty days from date of notice of desire to withdraw, or in case the value fixed by the appraisal committee shall not be satisfactory to any such shareholder, he may appeal to the Comptroller of the Currency who shall cause a reappraisal to be made, which shall be final and binding; and if said reappraisal shall exceed the value fixed by said committee, the bank shall pay the expenses of said reappraisal, and otherwise the appellant shall pay said expenses; and the value so ascertained and determined shall be deemed to be a debt due, and be forthwith paid, to said shareholder, from said bank; and the shares so surrendered and appraised shall, after due notice, be sold, at not less than par, at public or private sale, within thirty days after the final appraisal provided in this section, in default of which a receiver may be appointed according to the provisions of section fifty-two hundred and thirty-four, to close up the business of the association; Provided, That in the organization of any banking

association intended to replace any existing banking association, and retaining the name thereof, the holders of stock in the expiring association shall be entitled to preference in the allotment of the shares of the new association in proportion to the number of shares held by them respectively in the expiring association.

Sec. 6.-- That the Circulating notes of any association so extending the period of its succession which shall have been issued to it prior to such extension shall be redeemed at the Treasury of the United States, as provided in section three of the act of June twentieth, eighteen hundred and seventy-four, entitled "An act fixing the amount of United States notes, providing for redistribution of national bank currency, and for other purposes", and such notes when redeemed shall be forwarded to the Comptroller of the Currency, and destroyed, as now provided by law; and at the end of three years from the date of the extension of the corporate existence of each bank the association so extended shall deposit lawful money with the Treasurer of the United States sufficient to redeem the remainder of the circulation which was outstanding at the date of its extension, as provided in sections fifty-two hundred and twenty-two, fifty-two hundred and twenty-four, and fifty-two hundred and twenty-five of the Revised Statutes; and any gain that may arise from the failure to present such circulating notes for redemption shall inure to the benefit of the United States; and from time to time, as such notes are redeemed or lawful money deposited therefor as provided herein, new circulating notes shall be issued as provided by this act, bearing such devices, to be approved by the Secretary of the Treasury, as shall make them readily distinguishable from the circulating notes heretofore issued: Provided, however, That each banking association which shall obtain the benefit of this act shall reimburse to the Treasury the cost of preparing the plate or plates for such new circulating notes as shall be issued to it.

(Note: Sections 1, 2, 5 and 6 of the act of July 12, 1882, relate to the extension of corporate existence of national banking associations. Section 2 of the act provides that an amendment authorizing extension shall be effected by the consent in writing of shareholders owning not less than two-thirds of the stock. This is the only amendment of the articles of association of a national bank effected by written consent, as in all other instances a majority stock vote is required; and it would appear to be in the interest of all stockholders if the matter of amendment be changed to require a vote for authorization to be adopted by a two-thirds stock vote at a meeting duly called for the purpose, and called a reasonable length of time prior to the expiration of charter, to enable all shareholders to be present and express their views as to the desirability of an extension of the corporate existence or expiration of charter.

Section 5 of the act of July 12, 1882, provides the means by which dissenting shareholders may withdraw. This is defective in that it provides no means of compelling directors to act promptly and within a reasonable time in the appointment of a committee of appraisal and settlement with withdrawing shareholders.

Section 6 of the act requires the bank on extension to order a new plate of a different design from the original plate, for the printing of circulating notes. If any good reason existed for this provision in 1882, it does not now exist, and there appears to be no reason why a national bank should be required to go to the additional expense of paying for plates for the printing of notes of a different design, in view of the provision of section 4 to the effect that any association so extending the period of its succession shall continue to enjoy all the rights and privileges and immunities granted, and shall continue to be subject to all the duties, liabilities and restrictions imposed by the statutes having reference to national banking associations.