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NATIONAL MONETARY COMMISSION

Supplement
to
The Origin of the National
Banking System

BY

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APPENDIX D.

THE MOORHEAD BILL.

On the 20th of January, 1863, Mr. Moorhead of Pennsylvania introduced in the House of Representatives a bill "To provide a national currency secured by a pledge of United States stock, and to provide for the circulation and redemption thereof." Mr. Moorhead was neither a financier nor a lawyer, hence it may be inferred that the bill was introduced at the suggestion of some other person, for the purpose of securing a foothold in the legislative controversy then in progress. Its introduction does not, however, seem to have had the slightest influence upon the progress of events. The history of the bill is to be found in full in the entries in the House Journal and the Congressional Globe, which record the action of the House on that day. The bill was ordered to be printed and was referred to the Committee on Ways and Means. After which it was not heard of. No copy of the bill is to be found in the House document room, but it chanced that one has been preserved in the collection in the document room of the Senate. From that source we are able to procure a copy of House bill No. 693, Thirty-seventh Congress, third session, which, even though it was stillborn, is entitled to recognition in an attempt to place on record the story of the development of the present national banking act. As it has not heretofore been reprinted it is now offered as an appendix to Senate Document No. 582, Sixty-first Congress, second session.

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The reference of the Moorhead bill to the committee proved to be fatal even to the discussion of its merits, for when the bill known as the Sherman Act was sent down to the House after its passage in the Senate, its consideration by the House was secured without committee reference, with the result that it was put through the several parliamentary stages requisite as a preliminary to its passage and finally passed without suffering delay from reference, all of which took place while the Moorhead bill was slumbering in the hands of the committee.

The Hooper bill was already before the House and a comparison of that bill with the Moorhead bill will show that the provisions of the first four sections are the same. The fifth section, however, in the Moorhead bill, is intrusive and discloses the probable purpose of the introduction of the bill. It provides that any bank having a capital of not less than \$100,000, chartered in any State or Territory or in the District of Columbia may deposit United States stock with the United States Treasurer, and receive the national currency authorized by the act, to the extent of 80 per cent of the market value of the stock deposited. Provision is made in this section for the reception by the banks of the currency to be furnished by the Government and for the forfeiture of the pledged securities of any bank receiving the currency, which should fail to redeem the same on presentation.

The provisions of the Hooper bill relative to the reception by associations of the government currency; the method of establishing a failure to redeem, and the manner in which the forfeiture should be imposed are necessarily voluminous. The person who drafted section 5 of

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the Moorhead bill, in order to save unnecessary repetition, covered the ground of incorporating these various sections into section 5 by references to the other sections by number, describing them as sections "of this act." An examination of the sections in the Moorhead bill bearing the designated numbers shows that they do not treat of the subjects referred to. If we test the Hooper bill to see if the references by section might perhaps fit in with that bill, we meet with the same result; but when we make the same test with the Sherman Act, we find that the references are appropriate. It would be natural to conclude that whoever drafted this section had the Sherman Act before him and made his references to the numbered sections in that act which deal with the respective subjects under consideration. It would not seem, however, as if such could have been the case. The Moorhead bill was introduced in the House on the 20th and the Sherman Act in the Senate on the 26th of January. Had the case been reversed and numerical references in the Sherman Act been found to correspond with the sections in the Moorhead bill, the conclusion would have been irresistible that use had been made of that bill by the person who drafted the Sherman Act. It is evident that whoever performed that service discovered the fact that there was likely to be trouble in these numerical cross references, and skillfully avoided them throughout the act. On the other hand, an examination of the Hooper bill shows that the section references in that bill are all wrong. This also is the case with the Moorhead bill with a single exception.

The sixth and seventh sections of the Moorhead bill correspond practically with the fifth and sixth in the

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Hooper bill, but the eighth section of the former is made up of a consolidation of the ninth and tenth sections of the latter, the seventh and eighth not being reproduced. Through omissions and changes the consolidated section differs considerably from the originals, it being made a prerequisite for an association before it can receive its certificate to deposit with the Treasurer 50 per cent of the amount of its capital stock in United States 6 per cent bonds.

Sections 9, 10, 11, and 12 of the Moorhead bill correspond practically with sections 11, 12, 13, and 14 of the Hooper bill. No increase of stock, however, was to be valid under the Moorhead bill until the whole amount of this increase should have been deposited with the Treasurer of the United States in 6 per cent United States stocks.

The fifteenth section of the Hooper bill is dropped entirely from the Moorhead bill, but in place of it the eighth section of that bill called for a notification to the Comptroller of Currency that at least 50 per cent of the whole amount of the proposed capital stock of the association which was seeking to organize under the act had been deposited with the Treasurer of the United States "in and of United States stocks, or their equivalent in United States stocks," for the purpose and with the views of obtaining therefor circulating notes.

Sections 13 to 31, inclusive, of the Moorhead bill correspond closely with sections 16 to 34 of the Hooper bill, with the exception that section 23 is greatly curtailed.

Sections 35 to 55 of the Hooper bill, which relate in a general way to the management of the associations, prescribe what they may do, impose certain restraints upon

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their actions, and define the responsibilities and liabilities of their officers, are omitted in the Moorhead bill, with the exception that section 54 of the Hooper bill, which authorizes the Secretary to employ associations as depositaries, is to be found in section 32 of the Moorhead bill in a modified form.

Sections 33 to 37, inclusive, of the Moorhead bill correspond with sections 56 to 60 of the Hooper bill. Section 61 of the Hooper bill is omitted, while section 38 of the Moorhead bill is a mere reservation of the right to amend at any time.

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37TH CONGRESS, }
3RD SESSION. }

H. R. 693.

IN THE HOUSE OF REPRESENTATIVES.

January 20, 1863.

Mr. MOORHEAD, on leave, introduced the following bill:

To provide a national currency, secured by a pledge of United States stock, and to provide for the circulation and redemption thereof.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there shall be established in the Treasury Department a separate bureau, which shall be charged with the execution of this act and all laws that may be passed by Congress respecting the issue and regulation of a national currency secured by a pledge of United States stock. The chief officer of said bureau shall be denominated the Comptroller of the Currency, and shall be under the general direction of the Secretary of the Treasury. He shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold his office for the term of five years unless sooner removed by the President, by and with the advice and consent of the Senate; he shall receive an annual salary of five thousand dollars; he shall appoint a competent deputy, whose salary shall be two thousand five hundred dollars, and who shall possess the power and perform the duties attached by law to the office of said Comptroller during a vacancy in such office and during his absence or inability; he shall employ, from time to

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time, the necessary clerks to discharge such duties as he shall assign to them, whose salaries shall not exceed sixteen hundred dollars each. Within fifteen days from the time of notice of his appointment the said Comptroller shall take and subscribe the oath of office prescribed by the Constitution and laws of the United States; and he shall give to the United States a bond in the penalty of one hundred thousand dollars, with two responsible freeholders as sureties, to be approved by the Secretary of the Treasury, conditioned for the faithful performance of the duties of his office; and he shall not, either directly or indirectly, be interested in any association issuing national currency under the provisions of this act. The Deputy Comptroller so appointed shall also take the oath of office prescribed by the Constitution and laws of the United States, and shall give a bond in the penalty of fifty thousand dollars.

SEC. 2. *And be it further enacted,* That the said Comptroller of the Currency, with the approval of the Secretary of the Treasury, shall devise a seal with suitable inscriptions for his office, a description of which, with a certificate of approval by the Secretary of the Treasury, shall be filed in the office of the Secretary of State with an impression thereof, which shall thereupon be and become the seal of office of the Comptroller of the Currency, and the same may be renewed whenever necessary. Every certificate, assignment, and conveyance executed by the said Comptroller, in pursuance of any authority conferred on him by law, and sealed with his said seal of office, shall be received in evidence in all places and courts whatsoever; and all copies of papers in the office

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of the said Comptroller, certified by him and authenticated by the said seal, shall in all cases be evidence equally and in like manner as the original. An impression of such seal directly on the paper shall be as valid as if made on wax or wafer.

SEC. 3. *And be it further enacted,* That there shall be assigned to said Comptroller of the Currency by the Secretary of the Treasury suitable rooms in the Treasury building for conducting the business of the Currency Bureau, in which shall be safe and secure fire-proof vaults, in which it shall be the duty of said Comptroller to deposit and safely keep all the books, papers, plates, and other valuable things belonging to his department; and the said Comptroller shall from time to time furnish the necessary furniture, stationery, fuel, lights, and other proper conveniences for the transaction of the said business, the expense of which shall be paid out of any money in the treasury not otherwise appropriated.

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

SEC. 5. *And be it further enacted,* That any chartered bank or banking association in good credit, whose capital is not less than one hundred thousand dollars, organized under the law of any State or Territory, or in the District of Columbia, wishing to avail itself of the advantages of the national currency authorized to be issued by this act, shall present to the Comptroller of the Currency an author-

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ized application therefor, verified by its seal and the signature of its president and cashier, duly acknowledged before a judge of some court of record or a notary public, the acknowledgment thereof to be certified under the seal of such court or notary; and the said application shall state the name of the said bank or banking association, the place where its office of discount, deposit, and issue is located, designating the State, city, town, or village, the amount of the capital stock, the number of shares into which the same is divided, the par value of each share, the time when its charter will expire; and a declaration that the said certificate is made to enable such bank or banking association to avail itself of the advantages of this act, so far as to receive from the Comptroller of the Currency such an amount of the national currency authorized to be issued by this act, in the denominations and according to the forms prescribed by the eighteenth section of this act, as shall be equal in amount to eighty per centum of the market price not over the par value of the United States stock, bearing interest, which pursuant to the provisions of this act, the said bank, making the said declaration, may preliminary to its receiving such notes, transfer and deliver to, and deposit with, the Treasurer of the United States; which United States stock so transferred as security for notes issued as aforesaid, shall be held by the Treasurer of the United States, pursuant to the provisions of the twenty-first section of this act. And further, that if any such bank or banking association shall, at any time, fail to redeem, in lawful money of the United States, any of the circulating notes delivered to it as aforesaid, when payment thereof shall be lawfully demanded, during the

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usual hours of business, at the office of such bank or banking association, (the fact of such refusal to pay such notes to be ascertained pursuant to the twenty-fifth section of this act,) the stock of the United States, so pledged, shall be forfeited to, and disposed of, by the United States, according to the provisions of the twenty-sixth section of this act; and further, that the said chartered bank or banking association shall be entitled to no advantages, or be subject to any provisions of this act other than such as are provided for in this section and the other sections of this act referred to as aforesaid.

SEC. 6. *And be it further enacted,* That associations for carrying on the business of banking may be formed by any number of persons, not less in any case than five.

SEC. 7. *And be it further enacted,* That persons uniting to form such an association shall, under their hands and seals, make a certificate which shall specify—

First. The name assumed by such association.

Second. The place where the operations of discount and deposit of such association are to be carried on; designating the State, Territory, or District, and also the particular city, town, or village.

Third. The amount of the capital stock of such association, and the number of shares into which the same shall be divided; which capital stock shall not be less than fifty thousand dollars.

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

Fifth. The time when such association shall commence, and when the same shall terminate.

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

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

SEC. 8. *And be it further enacted,* That whenever a certificate shall have been transmitted to the Comptroller of the Currency, as provided in the seventh section of this act, and the association transmitting the same shall notify said Comptroller that at least fifty per centum of the whole amount of the proposed capital stock of such association has been deposited with the Treasurer of the United States, in and of six per centum United States stocks, or their equivalent in United States stocks, for the purpose and with the views of obtaining therefor circulating notes, under and according to the provisions of this act; if, upon a careful examination of the facts so reported, and of any other facts which may come to the knowledge of the said

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Comptroller, whether by means of a special commission appointed by him for the purpose of inquiring into the condition of such association, or otherwise, it shall appear that such association is lawfully entitled to commence the business of banking, the said Comptroller shall give to such association a certificate under his hand and official seal, showing that such association has complied with all the provisions of this act required to be complied with before being entitled to commence the business of banking under it, and that such association is authorized to commence said business accordingly; and it shall be the duty of such association to cause said certificate to be published in some daily newspaper, published in the State where such association is located, for at least sixty days next after the issuing thereof.

SEC. 9. *And be it further enacted,* That every association formed pursuant to the provisions of this act may make and use a common seal, and shall have succession by the name designated in its articles of association and for the period limited therein; by such name may make contracts, sue and be sued, complain and defend in any court of law or equity as fully as natural persons, and may make by-laws, not inconsistent with law or the provisions of this act, for the election of directors, the management of its property, the regulation of its affairs, and for the transfer of its stock; and shall have power to carry on the business of banking by obtaining and issuing circulating notes in accordance with the provisions of this act; by discounting bills, notes, and other evidences of debt; by receiving deposits; by buying and selling gold and silver bullion, foreign coins, and bills of exchange; by loaning money on

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real and personal security in the manner specified in their articles of association for the purposes authorized by this act, and by exercising such incidental powers as shall be necessary to carry on such business; to choose one of their number as president of such association, and to appoint a cashier and such other officers and agents as their business may require; and to remove such president, cashier, officers, and agents at pleasure, and appoint others in their place; and all associations issuing notes to circulate as money under the provisions of this act shall be banks of discount and deposit as well as of circulation, and their usual business shall be transacted in banking offices located at the places specified respectively in their certificates of associations, and not elsewhere.

SEC. 10. *And be it further enacted,* That the shares of associations formed under this act shall be deemed personal property, and shall be transferable on the books of the association in such manner as may be prescribed in the articles of association; and every person becoming a shareholder by such transfer shall, in proportion to his shares, succeed to all the rights and liabilities of the prior holder of such shares; and no change shall be made in the articles of association by which the rights, remedies, or security of the existing creditors of the association shall be impaired.

SEC. 11. *And be it further enacted,* That it shall be lawful for any association formed under this act, by its articles of association, to provide for an increase of its capital from time to time as may be deemed expedient; but no such increase shall be valid until the whole amount of such increase shall have been deposited with the Treasurer of the United States in six per centum United States stocks,

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or their equivalent in United States stocks, for the purpose and with the views of obtaining circulating notes therefor, under and according to the provisions of this act, and notice of such increase and deposit shall have been duly transmitted to the Comptroller of the Currency and verified and certified by him.

SEC. 12. *And be it further enacted*, That it shall be lawful for any such association to purchase, hold, and convey real estate as follows:

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

Second. Such as shall be mortgaged to it in good faith by way of security for loans made by such association, or for moneys due thereto.

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

Fourth. Such as it shall purchase at sales under judgments, decrees, or mortgages held by such association.

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

SEC. 13. *And be it further enacted*, That upon the making of any such transfer and delivery of United States stock as heretofore provided, and otherwise complying with the other preliminary requirements of this act, the association making the same shall be entitled to receive from the Comptroller of the Currency circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to the current market value of the United States stock so transferred and delivered, but not exceeding the par value thereof, if

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bearing interest at the rate of six per centum, and the equivalent of stock bearing interest at the rate of six per centum if in stock bearing a less rate of interest; and at no time shall the total amount of such notes, issued to any such association exceed the amount at such time actually paid in of its capital stock.

SEC. 14. *And be it further enacted*, That, in order to furnish suitable notes for circulation, the Comptroller of the Currency is hereby authorized and required, under the direction of the Secretary of the Treasury, to cause plates to be engraved, in the best manner to guard against counterfeiting and fraudulent alterations, and to be printed therefrom and numbered, such quantity of circulating notes, in blank, of the denominations of five dollars, ten dollars, twenty dollars, fifty dollars, one hundred dollars, five hundred dollars, and one thousand dollars, as may be required to supply, under this act, the banks and associations entitled to receive the same; which notes shall express upon their face that they are secured by United States stock, deposited with the Treasurer of the United States and issued under the provisions of this act, which statement shall be attested by the written or engraved signatures of the Treasurer and Register, and by the imprint of the seal of the treasury; and shall also bear upon their face the usual promise of the bank or association receiving the same, to pay on demand attested by the signatures of the president and cashier; and the said notes shall bear such devices and such other statements, and shall be in such form, as the Secretary of the Treasury shall, by regulation, direct.

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SEC. 15. *And be it further enacted,* That the plates and special dies to be procured by the Comptroller of the Currency for the printing of such circulating notes shall remain under his control and direction, and the expenses necessarily incurred by him, in executing the provisions of this act respecting the procuring of such notes, shall be audited and paid as contingent expenses of the Treasury Department; and for the purpose of reimbursing the same, and all other expenses incurred under this act, and in lieu of all taxes upon the circulation authorized by this act, or upon the bonds deposited for security of the same, the Treasurer of the United States is hereby authorized to reserve and retain one-fourth of one per centum on the amount of said bonds so deposited, at each semi-annual payment of interest thereon; and all sums so reserved and retained shall be paid into the treasury under the direction of the Secretary, and every bank, banking association, or corporation issuing notes calculated or intended to circulate as money, otherwise than as in this act provided, shall, within six months after the passage of this act, and regularly once in every succeeding six months, make and deliver to the Comptroller of the Currency a true and accurate return of the amount of notes issued by it, whether in circulation, in its vaults, or on deposit elsewhere, specifying the amount of the several denominations; and shall pay to the Comptroller of the Currency, semi-annually and at the time of making each return, in lawful money of the United States, one per centum upon the gross amount of notes issued, according to such return, during the first year after the passage of this act, and two per centum semi-annually thereafter thereon; and in default

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of any such return, the bank, banking association, or corporation so failing to make return shall pay to the United States a penalty of three per centum upon its entire capital stock, to be recovered, for the use of the United States, in any court of competent jurisdiction.

SEC. 16. *And be it further enacted,* That after any such association shall have caused such notes to be filled up and signed by the president or vice-president and cashier thereof, in such manner as to make them obligatory promissory notes, payable on demand, at its place of business, such association is hereby authorized to issue and circulate the same as money; and the same shall be received at par in all parts of the United States in payment of taxes, excises, public lands and all other dues to the United States, except for duties on imports, and also for all salaries and other debts and demands owing by the United States to individuals, corporations, and associations within the United States; and no such association shall issue post notes or any other notes to circulate as money than such as are authorized by the foregoing provisions of this act.

SEC. 17. *And be it further enacted,* That all transfers of United States stock which shall be made by any bank or banking association as security for circulating notes under the provisions of this act shall be made to the Treasurer of the United States, with a memorandum written or printed on the certificate of such stock, and signed by the cashier or some other officer of the association making the deposit, stating that it is held in trust for the association on whose behalf such transfer is made, and as security for the redemption and payment of the circulating notes deliv-

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ered to such bank or association; and no transfer of any such stock by the Treasurer shall be deemed valid or of binding force and effect, unless sanctioned by the order or request of the Comptroller of the Currency upon said Treasurer. It shall be the duty of the Comptroller of the Currency to keep in his office a book in which shall be entered the name of every bank or banking association, from whose account such transfer of stock is made by the said Treasurer, and the name of the party to whom such transfer is made, unless such transfer is made in blank, in which case the fact shall be stated in said book, and in either case the par value of the stock so transferred shall be entered therein; and it shall be the duty of the said Comptroller, immediately upon countersigning and entering the same, to advise by mail the bank or association from whose account such transfer was made, the kind of stock, and the amount thereof so transferred.

SEC. 18. *And be it further enacted,* That it shall be the duty of the Comptroller of the Currency to countersign and enter in the book, in the manner aforesaid, every transfer or assignment of any stock held by the said Treasurer presented for his signature; and the said Comptroller shall have at all times during office hours access to the books of the Treasurer, for the purpose of ascertaining the correctness of the transfer or assignment presented to him to countersign; and the Treasurer shall have the like access to the book above mentioned, kept by the said Comptroller, during office hours to ascertain the correctness of the entries in the same.

SEC. 19. *And be it further enacted,* That it shall be the duty of either the president or cashier of every bank and

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banking association having stocks deposited in the office of the Treasurer of the United States, once or more in each fiscal year, and at such time or times during the ordinary business hours as said officer or officers may select, to examine and compare the stock so pledged with the books of said department, and if found correct, to execute to the said Treasurer a certificate setting forth the different kinds and the amounts thereof, and that the same are in the possession and custody of the said Treasurer at the date of such certificate. Such examination may be made by an agent of such bank or association, duly appointed in writing for that purpose, whose certificate before mentioned shall be of like force and validity as if executed by such president or cashier.

SEC. 20. *And be it further enacted,* That every association issuing circulating notes under the provisions of this act shall make a quarterly report to the Comptroller of the Currency, commencing in August next, and to be continued in November, February, May and August in each year thereafter, which report shall be verified by the president and cashier, and each of such reports shall contain a correct statement of the amount of the capital stock, of the average amount of the loans and discounts, of the specie and specie funds, of the legal tender notes of the United States, of the deposits, and of the circulation outstanding during the three months immediately preceding of each of said several and respective banks and banking associations, and all wilful false swearing in respect to such report shall be perjury, and subject to the punishment prescribed by law for such offence.

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SEC. 21. *And be it further enacted*, That if any such association shall at any time fail to redeem, in the lawful money of the United States, any of its circulating notes, when payment thereof shall be lawfully demanded, during the usual hours of business, at the office of such association, the holder may cause the same to be protested in one package, by a notary public, unless the president, cashier, or teller of the association shall offer to waive demand and notice of the protest, and shall, in pursuance of such offer, make, sign, and deliver to the party making such demand an admission in writing, stating the time of the demand, the amount demanded, and the fact of the non-payment thereof; and such notary public, on making such protest, or upon receiving such admission, shall forthwith forward such admission or notice of protest to the Comptroller of the Currency; and after such default it shall not be lawful for the association suffering the same to pay out any of its notes, discount any notes or bills, or otherwise prosecute the business of banking, except to receive and safely keep money belonging to it, and to deliver special deposits: *Provided, however*, That if satisfactory proof be produced to such notary public that the payment of any such notes is restrained by order of any court of competent jurisdiction, such notary public shall not protest the same; and when the holder of such notes shall cause more than one note or package to be protested on the same day, he shall not receive pay for more than one protest.

SEC. 22. *And be it further enacted*, That on receiving notice that any such association has failed to redeem any of its circulating notes, as specified in the next preceding section, the Comptroller of the Currency, with the con-

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currence of the Secretary of the Treasury, shall appoint a special agent, (of whose appointment immediate notice shall be given to such association,) who shall immediately proceed to ascertain whether such association has refused to pay its circulating notes, in the lawful money of the United States, when demanded as aforesaid, and report to the said Comptroller of the Currency the facts so ascertained; and if, from the reports so made, the said Comptroller shall be satisfied that such association has refused to pay its circulating notes as aforesaid, and that it has been in default ten days, he shall, within thirty days after he shall have received notice of such failure, declare the United States stock and securities pledged by such association forfeited to the United States, and the same shall thereupon be forfeited accordingly; and thereupon said Comptroller shall immediately give notice in such manner as the Secretary of the Treasury shall, by general rules or otherwise, direct, to the holders of the circulating notes of such association to present them for payment at the treasury of the United States; and the same shall be paid as presented, whereupon said Comptroller may, in his discretion, cancel an equal amount of the stock pledged by such association; and it shall be lawful for the Secretary of the Treasury, from time to time, to make such regulations respecting the disposition to be made of such circulating notes after presentation thereof for payment as aforesaid, and respecting the perpetuation of the evidence of the payment thereof, as may seem to him proper; but all such notes, on being paid, shall be cancelled; and for any deficiency in the proceeds of the stocks and securities pledged by such association, when disposed of as hereinafter speci-

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fied, to reimburse to the United States the amount so expended in paying the circulating notes of such association, the United States shall have a first and paramount lien upon all the assets of such association, and such deficiency shall be made good out of such assets in preference to any and all other claims whatsoever, except the necessary costs and expenses of administering the same.

SEC. 23. *And be it further enacted*, That whenever said Comptroller shall become satisfied, as in the last preceding section specified, that any such association has refused to pay its circulating notes as therein mentioned he may, instead of cancelling the United States stock and securities pledged by such association, as provided in the next preceding section, cause so much of them as may be necessary to redeem the outstanding circulating notes of such association to be sold at public auction in the city of New York, after giving notice of such sale to such association, and also advertising the time and place of sale, with a pertinent description of the stock to be offered for sale, in two or more newspapers published in the city of New York, for not less than ten days next preceding the day of sale.

SEC. 24. *And be it further enacted*, That the Comptroller of the Currency, may if he shall be of opinion that the interests of the United States will be best promoted thereby, sell at private sale any of the stock so transferred to him by such association to any other association, or to any individual person or firms, and receive therefor either money or the circulating notes of such failing association: *Provided*, That no such stock shall be sold by private sale for less than the par value thereof at the time of sale, nor shall any such stock be sold on credit: *And provided fur-*

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ther, That no sales of any such stock, either public or private, shall be complete until the transfer thereof shall have been made with the formalities prescribed in section twenty-one of this act.

SEC. 25. *And be it further enacted*, That on becoming satisfied, as specified in section twenty-six of this act, that any such association has refused to pay its circulating notes as therein mentioned, and has been in default for ten days, the Comptroller of the Currency may forthwith appoint a receiver, and require of him such bond and security as he shall deem proper, who shall proceed, under the direction of said Comptroller, to take possession of the books, records, and assets of every description of such association, collect all debts, dues, and claims belonging to such association, and, upon the order of a court of record of competent jurisdiction, may sell or compound all bad or doubtful debts, and, on a like order, sell all the real and personal property of such association, on such terms as the court shall direct, and pay over all moneys so made to the Treasurer of the United States, and also make report to the Comptroller of the Currency of all his acts and proceedings. Such Comptroller shall cause notice to be given, by advertisement in one or more newspapers published in the city in which such association is located, if the same be in a city, and if not, then in one or more newspapers published in the county where the same is located for three consecutive months, calling on all persons who may have claims against such association to present the same, and to make legal proof thereof; and after the end of one year from the first publication of such notice, the said Comptroller, after full provision shall have been first made for refunding to

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the United States any such deficiency as is mentioned in the twenty-sixth section of this act, shall make a ratable dividend of the moneys so paid over to him by such receiver on all such claims as may have been so proved or adjudicated in a court of competent jurisdiction, and from time to time, as the proceeds of the assets of such association shall be paid over to him, he shall make further dividends, as aforesaid, on all claims previously proved or adjudicated; and the remainder of such proceeds, if anything, shall be paid over to the shareholders of such association, or their legal representatives, in proportion to the stock by them respectively held: *Provided, however,* That if any such association, against which proceedings have been so instituted on account of any alleged refusal to redeem its circulating notes as aforesaid, shall deny having failed to do so, such association may, at any time within ten days after such association shall have been notified of the appointment of an agent, as provided in the twenty-sixth section of this act, apply to the circuit court of the United States, or other court of competent jurisdiction, to enjoin further proceeding in the premises; and such court, after citing the Comptroller of the Currency to show cause why further proceedings should not be enjoined, and after the decision of the court or finding of a jury that such association has not refused to redeem its circulating notes, when legally presented, in the lawful money of the United States, shall make an order enjoining the Comptroller, and any receiver acting under his direction, from all further proceedings on account of such alleged refusal.

SEC. 26. *And be it further enacted,* That the stock transferred to the Treasurer of the United States, as hereinbe-

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fore provided, by any bank or association for the security of its circulating notes, shall be held exclusively for that purpose, until such notes shall be redeemed, except as provided in this act; and if any officer of the United States shall and do allow or permit any of the said stocks so deposited or transferred as hereinbefore mentioned and provided, or contemplated to be so done by virtue of this act, to be taken, abstracted, or otherwise used, than as contemplated and provided by this act, every such officer so offending shall be deemed and held to be guilty of a high misdemeanor, and on conviction thereof in any court of the United States, shall be sentenced to be imprisoned and kept at hard labor for a period of not less than six years, nor more than twenty years, and to be fined in a sum not less than ten thousand dollars, nor more than one hundred thousand dollars; but the Comptroller of the Currency shall give to any banking association powers of attorney to receive and appropriate to its own use the interest on the stock which shall have been so transferred to him by it; but such powers shall become inoperative whenever such bank or association shall fail to redeem its circulating notes as aforesaid; and said comptroller may return any of said stock to the bank or association which transferred the same, upon the surrender to him and the cancellation of a proportionate amount of such circulating notes: *Provided*, The current market value of the remaining stock which shall have been transferred by the bank or association offering to surrender such circulating notes shall be equal to the amount of all the circulating notes retained by such bank or association: *And provided, further*, That there shall have

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been no failure by such bank or association to redeem its circulating notes, and that there shall have been no other violation by such association of any of the provisions of this act for the security of the creditors of such association; nor shall said Comptroller be required to surrender such stock in fractional sums of less than one thousand dollars; and if, at any time after said stock shall be deposited with the Treasurer of the United States, as aforesaid, the market or cash value shall be reduced, the Comptroller of the Treasury is hereby authorized to demand and receive the amount of such depreciation in other United States stock at cash value, or in money, from the association receiving said bills, to be deposited with the Treasurer of the United States as long as such depreciation continues.

SEC. 27. *And be it further enacted,* That whenever the price of any of the bonds pledged as aforesaid for the redemption of the circulating notes of any such bank or association shall be at the stock exchange in the city of New York, for four consecutive weeks, at a rate less than that at which they shall have been estimated when so pledged, and such depreciation shall not have been made good by a deposit of other stocks or money, it shall be the duty of the bank comptroller to notify the Treasurer of the United States of such fact, and the payment of interest upon such depreciated bonds shall be suspended, and such interest shall be retained by said Treasurer until the same, when added to the current market value of the bonds so pledged, to be ascertained as before provided, shall be equal to the amount for which such bonds were pledged: *Provided,* That it shall be the duty of the bank

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comptroller, at the expiration of every period of three months, to cause the whole of the sums so retained, and then remaining in the treasury of the United States, to be invested in United States stocks, in the name of the bank comptroller, in trust for the respective associations by which the stocks on which such interest shall have accrued shall have been pledged; and whenever the price of such depreciated stock at the stock exchange in New York shall rise to the price at which they were pledged, and so remain for four consecutive weeks, such investment shall be assigned to such association, and all accruing interest on such pledged stock shall thereafter be paid to such association on demand thereof.

SEC. 28. *And be it further enacted,* That whenever any such bank or association, being desirous of relinquishing its banking business, shall have paid at least ninety per centum of its circulating notes, and shall have delivered the same to the Comptroller of the Currency to be cancelled, and shall have provided means and given security to the satisfaction of the said Comptroller, for the redemption of its outstanding notes of circulation at the place where such bank or association is located, and shall have given notice thereof by advertisement for six consecutive months in two newspapers of general circulation, published, one at the capital of the State in which such association shall be located, and one in the city, town, village, or county in which the same is located, if there be one published therein, it shall be lawful for the said Comptroller to authorize and for the Treasurer of the United States to re-transfer and deliver to such bank or association all the stock and securities pledged by it, and thereupon

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all the corporate powers of such association, except such as shall be necessary to close up its affairs, shall cease.

SEC. 29. *And be it further enacted,* That it shall be the duty of the Comptroller of the Currency to receive worn-out or mutilated circulating notes issued by any such bank or association, and to deliver in place thereof to such bank or association other blank circulating notes to an equal amount; and such wornout or mutilated notes, after a memorandum shall have been entered in the proper books, in accordance with such regulations as may be established by the said Comptroller, as well as all circulating notes which shall have been paid or surrendered to be cancelled, shall be burned to ashes by the said Comptroller of the Currency, in the presence of the Treasurer of the United States; and in case such notes shall have been delivered to said Comptroller by an officer or agent of said bank or association, then in the presence, also, of such officer or agent; and a certificate of such burning, signed by said Comptroller and Treasurer, shall be made in the books of said Comptroller, and a duplicate thereof given to such officer or agent.

SEC. 30. *And be it further enacted,* That it shall be unlawful for any officer acting under the provisions of this act to countersign or deliver to any such bank or association, or to any other company or person, any circulating notes contemplated by this act, except as hereinbefore provided, and in accordance with the true intent and meaning of this act; and any officer who shall violate the provisions of this section shall be deemed guilty of a high misdemeanor, and on conviction thereof in any court of the United States, shall be sentenced to be imprisoned and

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kept at hard labor for a period not less than six years, nor more than twenty years, and to be fined in a sum not less than ten thousand nor more than one hundred thousand dollars.

SEC. 31. *And be it further enacted*, That all fees for protesting the notes issued by any such bank or association shall be paid by the person procuring the protest to be made, and such bank or association shall be liable therefor; but no part of the stock pledged by such bank or association, as aforesaid, shall be applied to the payment of such fees; and all expenses of any preliminary or other examinations into the condition of any association shall be paid by such association; and all expenses of any receivership shall be paid out of the assets of such association before distribution of the proceeds thereof.

SEC. 32. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized, whenever, in his judgment, the public interest will be promoted thereby, to employ any of such associations, doing business under this act, as depositaries of the public moneys, in any place except the city of Washington.

SEC. 33. *And be it further enacted*, That every person who shall mutilate, cut, deface, disfigure, or perforate with holes, or shall unite or cement together, or do any other thing to any bank bill, draft, note, or other evidence of debt issued by any such association, or shall cause or procure the same to be done, with intent to render such bank bill, draft, note, or other evidence of debt, unfit to be reissued by said association, shall upon conviction, forfeit fifty dollars to the corporation who shall be injured thereby.

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SEC. 34. *And be it further enacted,* That if any person shall falsely make, forge, or counterfeit, or cause or procure to be made, forged, or counterfeited, or willingly aid or assist in falsely making, forging, or counterfeiting any note in imitation of, or purporting to be in imitation of, the circulating notes issued under the provisions of this act, or shall pass, utter, or publish, or attempt to pass, utter, or publish, any false, forged, or counterfeited note, purporting to be issued by any corporation or association doing a banking business under the provisions of this act, knowing the same to be falsely made, forged, or counterfeited, or shall falsely alter, or cause or procure to be falsely altered, or willingly aid or assist in falsely altering any such circulating notes, issued as aforesaid, or shall pass, utter, or publish, or attempt to pass, utter, or publish as true, any falsely altered or spurious circulating note issued, or purporting to have been issued, as aforesaid, knowing the same to be falsely altered or spurious, every such person shall be deemed and adjudged guilty of felony, and being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept at hard labor for a period not less than three years nor more than ten years, and to be fined in a sum not exceeding one thousand dollars.

SEC. 35. *And be it further enacted,* That if any person shall make or engrave, or cause or procure to be made or engraved, or shall have in his custody and possession any engraved plate or block after the similitude of any plate from which any circulating notes issued as aforesaid shall have been printed, with intent to use such plate or block, or cause or suffer the same to be used, in forging or counter-

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feiting any of the notes issued as aforesaid, or shall have in his custody or possession any blank note or notes engraved and printed after the similitude of any notes issued as aforesaid, with intent to use such blanks, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, or shall have in his custody or possession any paper adapted to the making of such notes, and similar to the paper upon which any such notes shall have been issued, with intent to use such paper, or cause or suffer the same to be used, in forging or counterfeiting any of the notes issued as aforesaid, every such person, being thereof convicted by due course of law, shall be sentenced to be imprisoned and kept at hard labor for a term not less than three nor more than ten years, and fined in a sum not exceeding one thousand dollars.

SEC. 36. *And be it further enacted,* That suits, actions, and proceedings may be had in courts of record of the several States and Territories by and against corporations and associations under the provisions of this act; and such courts shall have concurrent jurisdiction with the circuit and district courts of the United States in all such suits, actions, and proceedings.

SEC. 37. *And be it further enacted,* That it shall be the duty of the Comptroller of the Currency to report annually to Congress, at the commencement of its session—

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

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

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

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

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

SEC. 38. *And be it further enacted,* That the right to alter, amend, and extend this act and the provisions thereof is hereby expressly reserved; but not so as to do injustice to those interested and to be affected thereby.

