

February 22, 1916.

My dear Governor:

The accompanying letter from Mr. Myron Campbell, Cashier of The South Bend National Bank, South Bend, Indiana, has been referred to this office for an opinion.

Mr. Campbell asks whether in the opinion of this office Section 5211 of the Revised Statutes gives the Comptroller of the Currency power to require National banks to furnish any information other than that which is to be published in the newspaper, and whether the Comptroller may impose the penalty prescribed by Section 5213 of the Revised Statutes for failure to furnish such information.

The question of what information may be called for by the Comptroller under the authority of Section 5211 was considered by the Attorney General in an opinion dated November 9, 1912. In this opinion the Attorney General says -

"By section 5211, Revised Statutes, the Comptroller is expressly given - -
'power to call for special reports from any particular association whenever in his judgment the same are necessary in order to have a complete knowledge of its condition'.

One view of this section is that it limits the power of the Comptroller to call for reports concerning the financial condition of a particular association only, and that it is not broad enough to empower him to ask reports regarding general conditions which may have a bearing merely upon the expediency of amendments to the existing law. I think that too narrow a construction of the section, because section 333, Revised Statutes (above quoted) requires the Comptroller to make an annual report to Congress at the commencement of its session, showing among other things, 'any amendment to the laws relating to banking by which the system may be improved and the security of the holders of its notes and other creditors may be increased', and the power given in section 5211 to call for special reports is, in my opinion, broad enough to authorize him to call for any reports which may be necessary to enable him to determine how, in his opinion, the banking system may

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"be improved by new legislation and what legislation he should recommend to Congress for that purpose".

It seems clear, therefore, that the Comptroller is not limited to the statement showing the financial condition of the bank which is published in the newspaper, but may call for any information which is necessary to enable him to determine the true condition of the bank.

Section 5213 refers specifically to failure to furnish information called for in Section 5211.

In the opinion of this office, therefore, the Comptroller could impose the penalty prescribed for failure to furnish the information called for.

Respectfully,

M. C. ELLIOTT,

Counsel.

Honorable Charles S. Hamlin,
G o v e r n o r .