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(Mr. Bathgate.)

National Currency and Bank.

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A BILL INTITULED

Title.	AN ACT to provide a National Currency, and for the Regulation of Banking in the Colony of New Zealand.	
Preamble.	<p>WHEREAS it is expedient to make provision for the issue of a national currency, and for the regulation of banking in the Colony of New Zealand :</p> <p>BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, 5</p>	
Short Title.	1. The Short Title of this Act shall be "The National Currency and Bank Act, 1872."	
Interpretation clause.	2. The term "Colonial securities," as used in this Act, shall be construed to mean all debentures or other lawful acknowledgments of indebtedness already issued by or under the authority of any Provincial Ordinance or Act of the General Assembly, or which may hereafter be issued under the authority of an Act of the General Assembly.	10
Five or more persons may associate themselves as a banking company.	3. Five or more persons may associate themselves together for the purpose of carrying on the business of banking, by subscribing their names to a memorandum of association, and otherwise complying with the provisions of this Act, and shall, on registration, be and become an incorporated company.	15
Details required in memorandum of association.	<p>4. The memorandum of association shall contain the following particulars :—</p> <p>(1.) The name of the proposed association, which name shall be subject to the approval of the Colonial Treasurer.</p> <p>(2.) The Province and Town of the Colony in which the head or registered office of the association is to be established.</p> <p>(3.) The amount of its capital stock, and the number of shares into which the same shall be divided.</p> <p>(4.) The names and places of residence of the shareholders, and the number of shares held by each of them.</p> <p>(5.) A declaration that the memorandum is made to enable such persons to avail themselves of the advantages of this Act.</p>	20 25 30
	<p>The memorandum shall be acknowledged before a Judge of the Supreme Court, and shall with the acknowledgment thereof, authenticated by the seal of the Court, be transmitted to the Colonial Treasurer, who shall record and preserve the same in his office. Copies of such memorandum, duly certified by the Colonial Treasurer, and authenticated by the Seal of the Colony, shall be legal and sufficient evidence in all Courts of law within the Colony of the existence and incorporation of such association, and of every other matter or thing which could be proved by the production of the original memorandum.</p>	35 40
Memorandum to be accompanied with articles of association; failing which, articles in "Joint Stock Companies Act, 1860," to apply.	5. The memorandum of association may be accompanied by, or have annexed thereto or indorsed thereon, articles of association, signed by the subscribers to the association, and prescribing regulations for the association, which shall not be repugnant to or inconsistent with the provisions of this Act; but if no such regulations are prescribed, or so far as the same do not extend to modify the regulations contained in the Schedule marked B, annexed to "The Joint Stock Companies Act, 1860," such last-mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the association, and shall bind the association and the shareholders therein to the same extent as if they had been inserted in the articles of association, and such articles recorded.	45 50
Minimum capital prescribed.	6. No association shall be organized under this Act with a less capital than twenty-five thousand pounds, nor in a city, whose popula-	

tion exceeds twenty thousand persons, with a less capital than thirty-five thousand pounds: Provided that banks with a capital of not less than twelve thousand five hundred pounds may, with the approval of the Colonial Treasurer, be organized in any place the population of which does not exceed five thousand inhabitants.

7. Every association formed pursuant to the provisions of this Act shall be a body corporate by the name designated in the memorandum of association, and by that name shall and may sue any person or persons, body or bodies politic or corporate, whether a member or members of the said corporation or not, and may be sued, and implead and be impleaded in all Courts whatsoever, and may prefer lay and prosecute any indictment information and prosecution against any person or persons whomsoever, for any stealing embezzlement fraud forgery crime or offence, and in all indictments informations and prosecutions it shall be lawful to state the money and goods effects bills notes securities or other property of the corporation, and to designate the association by its corporate name, whenever for the purpose of any allegation of an intent to defraud, or otherwise howsoever such designation shall be necessary. And the corporation shall have perpetual succession with a common seal, unless the association be dissolved, or unless the franchise or privilege conferred by virtue of this Act shall be forfeited by a violation of this Act.

Associations incorporated.

8. The corporation may elect or appoint Directors, and by its Board of Directors appoint a President, Cashier, and other officers, define their duties, require bonds of them and fix the penalty thereof, dismiss said officers or any of them at pleasure and appoint others to fill their places, and exercise under this Act all such incidental powers as shall be necessary to carry on the business of banking, by discounting and negotiating promissory notes drafts bills of exchange and other evidences of debt, by receiving deposits, by buying and selling exchange coin and bullion, by loaning money on personal security, by making temporary advances on securities by way of lien or mortgage, and by obtaining issuing and circulating notes according to the provisions of this Act.

Corporation may elect Directors, and Directors authorized to carry on business of banking.

9. The affairs of every corporation shall be managed by not less than five Directors, one of whom shall be President. Each Director shall own in his own right at least ten shares of the capital stock of the association, and shall be resident in the Province or District in which the head office is located. Each Director shall, on his election, make a declaration that he is *bonâ fide* owner of the shares held by him, and that the same are not hypothecated or in any way pledged as security for any loan or debt.

Number and qualification of Directors.

10. The capital stock of any association formed under this Act shall be divided into shares of twenty pounds each, and be deemed personal property, and transferable in such manner as may be prescribed in the articles of association; and every transferee shall in proportion to his shares succeed to all the rights and liabilities of the prior holder of such shares. The shareholders shall be held individually responsible, equally and rateably 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 amounts invested in such shares.

Shares fixed at £20, and made transferable.

11. It shall be lawful for any association to provide by its articles of association for an increase of its capital from time to time subject to the provisions and limitations of this Act, and every association shall have power, by the vote of shareholders owning two-thirds of the capital stock, to reduce its capital to any sum not below the amount required by this Act in the formation of associations.

Capital may be increased or reduced.

12. At least fifty per centum of the capital stock of every association shall be paid up before it shall be authorized to commence

Fifty per cent. of capital to be paid up before commencing business.

business, and the remainder of the stock shall be paid in instalments of at least ten per centum cash on the whole amount of the capital at intervals of not exceeding two months from the time the association shall be authorized to commence business.

Stock of shareholder making default in payment of call to be sold.

13. If any shareholder or his assignee shall fail to pay any instalment on the stock when due, the Directors may sell the stock of such defaulting shareholder at public auction, having given ten days' previous notice by advertisement in a local newspaper, and also in the *Provincial Gazette* published in the Province in which the head office of the association is situated. After payment of the sum due, with interest and expenses, the excess shall be paid to the defaulting shareholder. If no bidder shall offer a sum equal to the sum due, the amount previously paid shall be forfeited to the association, and the stock may be sold or cancelled as to the Directors may appear expedient, without prejudice to all claims against the shareholder at the instance of the association or its creditors.

Securities equal to one-third of capital to be deposited with Colonial Treasurer before business is commenced.

14. Every association before commencing banking business under the provisions of this Act shall transfer and deliver to the Colonial Treasurer colonial securities to an amount not less than one-third of the capital stock paid in, which shall be kept by the Colonial Treasurer until the same shall be otherwise disposed of in terms of this Act; and the Colonial Treasurer is hereby authorized to receive and cancel any Colonial securities so delivered, and to issue in lieu thereof special debentures of like amount bearing a like rate of interest and having the same time to run; and the deposit of securities shall be by every association increased as its capital may be paid up or increased so that every association shall at all times have on deposit with the Treasurer Colonial securities to the amount of at least one-third of its capital stock actually paid in: Provided that nothing herein shall prevent an association that may desire to reduce its capital or to close its business and wind up its affairs from taking up its securities upon returning to the Treasurer its circulating notes in the proportion herein-after named, nor from taking up any excess of securities beyond one-third of its capital stock and upon which no circulating notes have been delivered.

Directors to make statutory declaration when Act has been complied with, and Colonial Treasurer to issue authorizing certificate.

15. Whenever fifty per centum of the capital stock of any association has been paid in, and the requirements of this Act have been complied with, the President and a majority of the Directors shall make a statutory declaration to that effect, and deliver the same to the Colonial Treasurer, who shall thereupon examine into the condition of such association; and if it shall appear to him that the requirements of the Act have been complied with, and that there is no reason to believe that the undertaking is fictitious or fraudulent, he shall give to the association a certificate under his hand and seal to the effect that such association has complied with all the provisions of the Act necessary, previous to being allowed to commence the business of banking, and that it is authorized to do so accordingly, which certificate shall be published in the *Gazette* three times, and in some local paper for one month at least.

Securities to be transferred to Colonial Treasurer, to protect circulating notes.

16. Every association shall transfer the Colonial securities required to be deposited as before mentioned to the Colonial Treasurer, to be held by him and his successors in trust for the association on whose behalf such transfer is made, and as security for the redemption and payment of any circulating notes that have been or may be delivered to such association. A register shall be kept of the securities so transferred to the Colonial Treasurer, and a certificate of the transfer when registered, shall be delivered to the association making the transfer. In the event of any transfer of the said securities by the Colonial Treasurer, the account of the association

to which they belonged shall be credited with the par value of the same, and the association shall be immediately advised thereof, with the particulars of the securities so transferred.

17. Upon the transfer and delivery of Colonial securities to the Treasurer as hereinbefore provided, the association making the same shall be entitled to receive from the Colonial Treasurer circulating notes of different denominations, in blank, registered and countersigned as hereinafter provided, equal in amount to ninety per centum of the current marked value of the securities so transferred and delivered, but not exceeding ninety per centum of the amount of said securities at the par value thereof, if bearing interest at a rate not less than five per centum per annum; and at no time shall the total amount of such notes issued to any association exceed ninety per centum of the amount at such time actually paid up of its capital stock.

Circulating notes to be issued equal to 90 per cent. of securities.

18. In order to furnish suitable notes for circulation, the Colonial Treasurer is hereby authorized and required to cause plates and dies to be engraved in the best manner to guard against counterfeiting and fraudulent alterations, and to have printed therefrom and numbered such quantity of circulating notes in blank, of the denominations of One Pound, Five Pounds, Ten Pounds, Twenty Pounds, Fifty Pounds, and One Hundred Pounds, as may be required to supply under this Act the associations entitled to receive the same; which notes shall express upon their face that they are secured by Colonial securities deposited with the Colonial Treasurer, by the written or engraved signatures of the Treasurer and Registrar, and by the imprint of the Seal of the Colony; and shall also express upon their face the promise of the association receiving the same to pay on demand, attested by the signatures of the President or one of the Directors appointed *quoad hoc*, and Cashier. And the said notes shall bear such devices and such other statements as the Colonial Treasurer shall by regulation direct.

Treasurer authorized to get notes engraved and printed.

19. After any such association shall have caused its promise to pay such notes on demand to be signed by the President or a Director 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 Colony in payment of taxes government licenses stamp duties Crown lands and all other dues to the Colony, except for duties on imports, and also for all salaries and other debts and demands owing by the General Government or any Provincial Government to individuals corporations and associations within the Colony, except interest on the public debt, and in redemption of the national currency, and the said promissory notes shall in all cases but the exceptions before mentioned, where tendered in payment of any debt claim or demand, be a legal tender.

20. No such association shall issue post notes or any other notes to circulate as money than such as are authorized by this Act.

Association authorized to issue notes when duly signed, to be received at par for taxes, &c., and as legal tender under certain exceptions.

20. It shall be lawful for the Colonial Treasurer to receive worn-out or mutilated circulating notes issued by any such banking association, and also, on proof of the destruction of any such circulating notes, to deliver in place thereof to such association other blank circulating notes to an equal amount. And such worn-out or mutilated notes, after a memorandum shall have been entered in the proper books, in accordance with such regulations as may established by the Governor in Council, as well as all such circulating notes which shall have been paid or surrendered to be cancelled, shall be burned to ashes in presence of four persons, two to be appointed by the Governor, one by the Colonial Treasurer, and one by the association, under such regulations as the Governor may prescribe. And a certificate of such burning, signed by the persons so appointed, shall be made in the books of the Treasury, and a duplicate thereof forwarded to the association whose notes are thus cancelled.

Worn-out and mutilated notes to be burned.

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Yearly comparison of securities and books to be made.

21. Once at least in each year, each association shall, by an officer or agent appointed in writing in that behalf, examine and compare the securities deposited and pledged by such association with the books of the Treasury and the accounts of the association, and, if found correct, the officer or agent shall grant a certificate to the Colonial Treasurer, setting forth the different kinds of such securities and the amount thereof, and that the same are in possession and custody of the Treasurer at the date of such certificate, and a duplicate of the certificate, countersigned by the Colonial Treasurer, shall be retained by the association.

Interest on securities to be paid to associations depositing the same.

22. The Colonial securities transferred to and deposited with the Colonial Treasurer as hereinbefore provided by any banking association for the security of its circulating notes shall be held exclusively for that purpose until such notes shall be redeemed, except as provided in this Act; but the Colonial Treasurer shall give to any such association a power of attorney to receive and appropriate to its own use the interests on the securities so transferred and deposited, but any such power shall become inoperative and void whenever such association shall fail to redeem its circulating notes as aforesaid. Whenever the market or cash value of any securities transferred and deposited shall be reduced below the amount of the circulation issued for the same, the Colonial Treasurer is hereby authorized to demand and receive the amount of such depreciation in additional Colonial securities at cost value or in money from the association receiving said notes, to be deposited with the Colonial Treasurer as long as such depreciation continues.

Associations may hold and convey real estate for specified purposes only.

23. It shall be lawful for any such association to purchase hold and convey real estate as follows:—

- (1.) Such as shall be necessary for its accommodation in the transaction of business.
- (2.) Such as shall be mortgaged to it in good faith by way of security for debts previously contracted.
- (3.) Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings.
- (4.) Such as it shall purchase at sales under judgments decrees or mortgages held by such association, or shall purchase to secure debts due to said association.

Such association shall not purchase or hold real estate in any other case or for any other purpose than as herein specified, nor shall it hold the possession of any real estate under mortgage or which has been purchased to secure debts due to it, for a longer period than five years.

No person shall be indebted for money borrowed to an amount exceeding one-tenth of capital of Association.

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

Coin to be kept on hand equal to 15 per cent. of aggregate amount of notes and deposits.

25. Every association shall at all times have on hand an amount in current coin equal to at least fifteen per centum of the aggregate amount of its notes in circulation and of its deposits. And whenever the coin of any association shall be below the amount of fifteen per centum of its circulation and deposits, such association shall not increase its liabilities by making any new loans or discounts otherwise than by discounting or purchasing bills of exchange payable at sight, nor make any dividend of its profits until the required proportion between the aggregate amount of its outstanding notes of circulation and deposits and its coin on hand shall be restored: Provided that

in the event of a clearing-house being established, certificates of such clearing-house, representing specie or lawful money specially deposited for the purpose of any clearing-house association, shall be deemed to be current coin in the possession of any association
 5 belonging to such clearing-house holding and owning such certificate, and shall be considered to be a part of the current coin which such association is required to have under the foregoing provisions of this section.

10 **26.** It shall be lawful for the Colonial Treasurer to notify to any association whose reserve of current coin shall be below the amount to be kept on hand as hereinbefore provided, to make good such reserve; and if such association shall fail for thirty days thereafter so to make good its reserve of current coin, the Governor may, on the application of the Colonial Treasurer, appoint a Receiver to wind up the business
 15 of such association.

Association failing to keep sufficient reserve to be wound up.

20 **27.** Each association shall select an association in Auckland, Wellington, Christchurch, or Dunedin, at which it shall redeem its circulating notes at par, and public notice shall be given of the association so selected, and of any change that may be made. If any association shall fail either to make the selection or to redeem its notes as aforesaid, the Governor may, upon receiving satisfactory evidence thereof, appoint a Receiver to wind up its affairs: Provided that nothing herein contained shall relieve any association from its liability to redeem its circulating notes at its own counter at par in
 25 lawful money on demand: And provided further that every association formed or existing under the provisions of this Act shall take and receive at par, for any debt or liability to such association, any and all notes or bills issued by any association existing under and by virtue of this Act.

Association to select place where notes may be redeemed. On failure to redeem to be wound up.

30 **28.** The Directors of any association may half-yearly in each year declare a dividend of so much of the net profits of the association as they shall judge expedient; but each association shall before the declaration of a dividend carry one-tenth part of its net profits of the preceding half-year to its surplus fund, until the same shall amount to
 35 twenty per centum of its capital stock.

Dividend from profits may be declared half-yearly. One-tenth of profits to be carried to surplus fund.

29. Periodical accounts or statements and general abstracts of the assets and liabilities of every association established under this Act shall be prepared made out and published according to the provisions of "The Bankers' Returns Act, 1858," and "The Bankers' Returns Act Amendment Act, 1860," and under the penalties and forfeitures therein contained.
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Accounts and statements to be published.

30. No association shall make any loan or discount on the security of the shares of its own capital stock, nor be the purchaser or holder of any such shares, unless such security or purchase shall be
 45 necessary to prevent loss on a debt previously contracted in good faith; and stock so purchased or acquired shall within six months from the time of its purchase be sold or disposed of at public or private sale, in default of which a Receiver may be appointed by the Governor to close up the business of the association.

Loan not to be made on security of shares.

50 **31.** No association shall at any time be indebted or in any way liable to an amount exceeding the amount of its capital stock at such time actually paid in and remaining undiminished by losses or otherwise, except on the following accounts, that is to say—

Liabilities not to be incurred beyond amount of capital except as specified.

55 First, On account of its notes of circulation.
 Second, On account of moneys deposited with or collected by such association.
 Third, On account of bills of exchange or drafts drawn against money actually on deposit to the credit of such association or due thereto.
 60 Fourth, On account of liabilities to its stockholders for dividends and reserved profits.

Circulating notes not to be pledged.

32. No association shall either directly or indirectly pledge or hypothecate any of its notes of circulation for the purpose of procuring money to be paid in on its capital stock, or to be used in its banking operations or otherwise; nor shall any association use its circulating notes, or any part thereof, in any manner or form to create or increase its capital stock. 5

Capital not to be withdrawn. Bad debts to be deducted before dividend declared.

33. No association or any member thereof shall during the time it shall continue its banking operations withdraw, or permit to be withdrawn, either in form of dividends or otherwise, any portion of its capital. And if losses shall at any time have been sustained by any such association equal to or exceeding its undivided profits then on hand, no dividend shall be made; and no dividend shall ever be made by any association while it shall continue its banking operations to an amount greater than its net profits then on hand, deducting therefrom its losses and bad debts. And all debts due to any association on which interest is past due and unpaid for a period of six months, unless the same be well secured and shall be in process of collection, shall be considered bad debts within the meaning of this Act: Provided that nothing in this section shall prevent the reduction of the capital stock of the association under the eleventh section of this Act. 10 15 20

Notes below par not to be paid away.

34. No association shall at any time pay out on loans or discounts, or in purchasing drafts or bills of exchange, or on payments of deposits, or in any other mode bring or put in circulation the notes of any bank or banking association which shall not at any such time be receivable at par on deposit and in payment of debts by the association so paying out or circulating such notes; nor shall it knowingly pay out or put in circulation any notes issued by any bank or banking association which at the time of such paying out or putting in circulation is not redeeming its circulating notes in lawful money. 25 30

List of shareholders to be registered.

35. The provisions of "The Joint Stock Companies Act, 1860," regulating the annual registration of a list of shareholders in the association shall be imperative on the Directors and Office-bearers of every association established under this Act.

Plates and dies to be kept by Colonial Treasurer, and expenses to be paid by association.

36. The plates and special dies to be procured by the Colonial Treasurer for the printing of the circulating notes shall remain under his control and direction, and the expenses necessarily incurred in executing the provisions of this Act shall be defrayed by an annual assessment levied on the associations proportionately to the amount of their circulating notes respectively. Any association failing to pay its proportion of such assessment within thirty days after notice from the Colonial Treasurer shall be deemed to be insolvent, and the Governor may appoint a Receiver to wind up the business of such association. 35 40

Association in liquidation may take up securities, and outstanding notes become Colonial liability.

37. Any association in liquidation may pay over to the Colonial Treasurer the amount of its outstanding notes in lawful coin and take up the securities deposited with the Treasurer before the issue thereof; and from that time such outstanding notes shall be a Colonial liability redeemable at the Colonial Treasury, and the said association and the shareholders thereof shall be discharged from all liabilities for the said outstanding notes. 45 50

Existing banks may come under Act.

38. Any bank incorporated by charter, or any banking institution organized under a special Act, carrying on business within the Colony, may become a national association under the provisions of this Act, by such name as shall be approved by the Colonial Treasurer; and in such case the memorandum of association may be executed by a majority of the Directors of the bank or banking institution: Provided that the owners of two-thirds of the capital stock shall have approved of a resolution to change and convert the said bank or banking institution into a national association under this Act. 55

Associations under this Act may be Government agents.

39. All associations under this Act, when designated by the Governor for that purpose, shall be depositaries of public money under 60

such regulations as may be prescribed by the Governor in Council, and they may also be employed as financial agents of the Government, and they shall perform all such reasonable duties as depositaries of public moneys and financial agents as may be required of them: Provided that every association so designated shall take and receive at par all of the national currency bills, by whatever association issued, which have been paid into the Government.

40. If any such association shall at any time fail to redeem in current coin any of its circulating notes, when payment thereof shall be lawfully demanded, the holder thereof may cause the same to be protested by a notary public, and such notary shall forthwith forward such protest to the Colonial Treasurer, retaining a copy thereof. And after such default, on examination of the facts by the Comptroller, and notice by him to the association, it shall not be lawful for the association to pay out any of its notes, discount any notes or bills, or otherwise prosecute the business of banking, except to receive and safely keep money belonging to it, and to deliver special deposits: Provided that the notes protested for non-redemption may be protested in one parcel or package, and it shall be sufficient to mention the total value of such parcel or package: Provided also that where the holder of the notes is another bank or banking institution, it shall be a lawful answer to the demand to give an indorsed certificate for the amount payable at the central clearing-house in the Colony.

Procedure on default in redemption of notes.

41. On being satisfied that any such association has made default as aforesaid, the Colonial Treasurer shall within sixty days after receiving notice of the failure, declare the securities pledged by such association forfeited to the Colony, and the same shall thereupon be forfeited accordingly. Notice shall then be given to the holders of the circulating notes of such association to present them for payment at the Colonial Treasury, and the same shall be paid as presented, in current coin. All such notes paid shall be cancelled, and an equivalent of the securities pledged, valued at current market rates, not exceeding par, shall also be cancelled. Any deficiency in the proceeds of the securities to reimburse to the Colony the amount so expended in paying the circulating notes of such association shall be a first or preferential charge upon all the assets of such association, and the Colony shall have a first and paramount lien upon such assets.

On default securities to be forfeited and cancelled as notes unpaid.

42. The Colonial Treasurer may, instead of cancelling the securities as hereinbefore provided, 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 any of the cities of the Colony which in his opinion may be likely to prove the best market, and he may, if he shall be of opinion that the interests of the Colony will be best promoted thereby, sell at private sale any of such securities, and receive therefor either money or the circulating notes of such association: Provided that no such securities shall be sold by private sale for less than the current market value thereof at the time of sale: Provided also that no sale shall take place until after giving thirty days' notice to the defaulting association.

Power to sell forfeited securities.

43. On any association making default as aforesaid, the Governor may forthwith appoint a Receiver, and require of him such bond and security as he shall deem proper, who, under direction of the Colonial Treasurer, shall take possession of the books records and assets of every description of such association, collect all debts dues and claims belonging to such association, and, upon the order of a Judge of the Supreme Court, 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 shall proceed in the liquidation and winding-up of the business of such association as if he had been appointed, and with all the powers competent to, a

On default Governor may appoint Receiver.

liquidator under "The Joint Stock Companies Act, 1860," or any Act amending the same.

Transfers, &c., after insolvency, to be null and void.

44. All transfer of the notes bonds securities bills of exchange and other evidences of debt owing to any association or of deposits to its credit, all assignments of mortgages securities on real estate or of judgment or of decrees in its favour, all deposits of money bullion or other valuable thing, for its use or for the use of any of the shareholders or creditors, and all payments of money by either made after the commission of an act of insolvency or in contemplation thereof, with a view to the improper or irregular application of its assets, 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. 5 10

Violation of provisions to infer forfeiture of privileges.

45. If the directors of any association shall knowingly violate, or knowingly permit any of the officers agents or servants of such association to violate, any of the provisions of this Act, all the rights privileges and franchises of the association derived from this Act shall be thereby forfeited. Such forfeiture shall only take place on the judgment of the Supreme Court on a complaint at the instance of the Colonial Treasurer. And in cases of such violation, every Director who shall be proved to have participated in or assented to the same shall be liable in his personal and individual capacity for all damages which the association, its shareholders, or any other person, shall have sustained in consequence of such violation. 15 20

Governor may appoint Inspectors.

46. The Governor may, on the application of the Colonial Treasurer, 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 not be a director or other officer in any association whose affairs he shall be appointed to examine, and who shall have power to make a thorough examination into all the affairs of the association, and in doing so to examine any of the officers and agents thereof on oath, and shall make a full and detailed report of the condition of the association to the Colonial Treasurer; and every person so appointed shall receive for his service at the rate of two pounds for each day employed by him in such examination, and one pound for each day's travelling charges in the event of his being employed beyond three miles from his own residence, which fees and charges shall be paid by the association by him examined. 25 30 35

Executors, &c., not to be personally liable.

47. Persons holding stock in any association organized under this Act as executors administrators guardians and trustees shall not be personally subject to any liabilities as stockholders; but the estates and funds in their hands shall be liable in like manner and to the same extent as the testator intestate ward or person interested in said trust funds would be if they were respectively living and competent to act and hold the stock in their own names. 40

Governor may appoint Comptroller of Currency.

48. It shall be lawful for the Governor, if it shall appear to be expedient for the efficient working of this Act so to do, to appoint an officer, to be denominated the Comptroller of the Currency, who shall undertake all the duties imposed by this Act upon the Colonial Treasurer with all the powers and privileges vested in him. 45

Annual report to be made to Assembly.

49. The Colonial Treasurer or Comptroller of the Currency shall report annually to the General Assembly at the commencement of its session— 50

First, Upon the state and condition of all the Banks within the Colony, with abstracts of their quarterly returns and comparative statements of the three preceding years. 55

Second, The amount of securities held by the Treasurer and the amount of circulating notes outstanding.

Third, Any amendment to the laws relative to banking by which the system may be improved, and the security of the holders of its notes and other creditors may be increased. 60

Fourth, The total expenses incurred under this Act, with a nominal return of the clerks employed and their remuneration respectively.

50. The sections of "The Forgery Act, 1867," as to forging bank notes and as to making and engraving plates for bank notes or bills, shall apply to all banks or associations established under this Act.

"Forgery Act, 1867," to apply.

51. Every President, Director, Cashier, Teller, Clerk or Agent of any association, who shall embezzle abstract or wilfully misapply any of the moneys funds or credits of the association, or shall without authority from the Directors issue or put in circulation any of the notes of the association, or shall without such authority issue or put forth any certificate of deposit, draw any order or bill of exchange, make any acceptance, assign any note bond draft bill of exchange mortgage judgment or decree, or shall make any false entry in any book report or statement of the association, with intent in either case to injure or defraud the association or any other company body politic or corporate or any individual person, or to deceive any officer of the association or any agent appointed to examine the affairs of any such association, shall be deemed guilty of a misdemeanour, and upon conviction thereof shall be punished by imprisonment for not less than nor more than years.

Embezzlement, &c., a misdemeanour punishable by imprisonment.

52. 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 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 to the association who shall be injured thereby the sum of twenty pounds, to be recovered in any Court of summary jurisdiction.

Mutilation of notes punishable by forfeiture.

53. It shall be unlawful for any officer acting under the provisions of this Act to countersign or deliver to any association, or to any other company or person, any circulating notes contemplated by this Act, except as hereinbefore provided, and in accordance with the true intent and meaning of this Act. And any officer who shall violate the provisions of this section, shall be deemed guilty of a high misdemeanour, and on conviction thereof shall be punished by fine not exceeding double the amount so countersigned and delivered, and imprisonment not less than one year and not exceeding ten years, and shall thereafter be disqualified from any employment in the public service.

Any officer countersigning notes illegally guilty of high misdemeanour.

54. Unless otherwise herein specially enacted and provided, every association shall be regulated by the provisions contained in the following Parts of "The Joint Stock Companies Act, 1860"—namely, "Part I.," entitled "Constitution and Incorporation of Companies and Associations;" Part II., entitled "Management and Administration of Companies;" and Part III., entitled "Winding up."

Provisions of "Joint Stock Companies Act, 1860," to apply unless otherwise enacted.

55. Every foreign bank or banking company carrying on business within the Colony shall set aside a definite portion of its capital for use within the Colony, and shall intimate to the Colonial Treasurer the amount so applied, and it shall not be lawful for such bank or banking institution to withdraw such amount from the Colony without previous intimation to the Colonial Treasurer; and on such intimation being given, the Treasurer shall advertise the same, and all rights and privileges as regards the issue of notes shall thereupon cease and determine.

Foreign banks to set aside defined portion of capital for use in Colony.

56. Each association or company or corporation, whether formed under this Act or not, carrying on business within the Colony, shall, in addition to the quarterly returns by law provided to be made, publish half-yearly balance sheets showing the amount of profit or loss during the half-year, and the said accounts shall in the case of foreign

Half-yearly balance sheets to be published.

companies or corporations have reference only to the business transacted within the Colony. Copies of each balance sheet shall within thirty days of the close of the half-year be forwarded, duly authenticated, to the Colonial Treasurer.

Clearing-house to
be established.

57. It shall be lawful for the Governor by proclamation to establish one or more general clearing-houses, having subsidiary local clearing-rooms, for the effecting at one or more places of the daily exchanges between the several Banks carrying on business within the Colony, and for the payment at the same places of the balances resulting from such exchanges, and to appoint regulations for the conduct of the business thereof, and for the election of officers and payment of expenses thereof, and all the associations companies and corporations carrying on the business of banking within the Colony shall be members of the clearing-house, and each shall contribute annually a portion of the expenses of the establishment, rateably according to the amounts of its paid-up capital. Any association or bank or banking company making default in payment of a balance due to the clearing-house shall be deemed to be insolvent, and the Governor shall forthwith appoint a Receiver to wind up the affairs of such defaulting association or bank or banking company.

By authority: GEORGE DIDSBUY, Government Printer.