

ordinary course of business, such Bank necessarily agrees to refund such deposits, or any part thereof, on demand. There can be no doubt that a National Bank, being thus authorized to receive deposits, and bound to return them, when received, upon demand, may, before receiving such deposits, enter into an obligation under seal, to return such deposits, or any part thereof, to the depositor on demand. In so doing it only agrees to perform the very duty, which is imposed upon it by law. Such bond is valid and is binding both upon the Bank and the sureties to such Bank.

As to the Third Point.—No provision of the National Banking Law prohibits an officer, or Director of any National Bank from becoming a surety upon a bond, conditioned for the return of deposits, which may be executed by such Bank, if such officer, or Director, shall see proper to become such surety.

As to the Fourth Point.—Under the second exception, in Section 5202, of title 62, chap. 3, of the Revised Statutes of the United States, a National Bank may become indebted for moneys deposited with it, although such indebtedness, if added to the other liabilities of the bank, may exceed the amount of its capital stock then paid in and remaining undiminished.

As such bank is authorized to incur an indebtedness to depositors in excess of the limit imposed by said Section 5202, it may, by its bond, agree to repay such indebtedness to any depositor, whether the amount secured by said bond, or the amount of the penalty of the said bond, if added to the other indebtedness of such bank, be in excess of the capital of such bank, then paid in and remaining undiminished, or not. Such bond is unquestionably valid. It creates, in fact, no new liability, so far as the bank is concerned. It is simply an engagement, under seal, to do what the bank, without such engagement, becomes bound to do when it receives a deposit, and it is satisfied by the payment to the depositor of the amount of the deposits for which the bank is liable. Until such deposits are repaid, both the bank and the securities upon the bond are, and remain liable.

Very respectfully, yours,

CHAS. J. M. GWINN,
Attorney-General.

Which were severally read.

Mr. Hoblitzell demanded the previous question.

The question then being,

“Shall the main question be now put?”

Mr. Neill moved that the House do now adjourn.