

earnings, and such an act of malfeasance will render the directors concurring therein jointly and severally liable for the amount equal to the impairment, as a debt due by them to the Bank (1). And so in like manner will they be held liable, if, having a rest or reserve fund of less than twenty per cent. of the paid-up capital of the Bank, they authorize a division of profits, either by way of dividend or bonus, or both combined, or in any other way exceeding the rate of eight per cent. per annum (2).

OFFICIAL BONDS.—Again, the directors may render themselves liable to the corporation for neglect of their duty, in failing to comply with the requirements of Section 23 with reference to official bonds. If any mischief results to the corporation by reason of their failure to take the bonds required by law, they may be held responsible for it, as they may for any other malfeasance in office.

As the Bank Act forbids the issue of bills for circulation, before a certain portion of the capital stock has been subscribed and paid in, and a certificate obtained from the Treasury Board, an issue before the issue of such certificate will make the provisional directors personally liable to redeem any of the bills which the Bank is unable to pay in the due and ordinary course of its business. A statutory requisition of a nature so plain and simple as this cannot be excusably broken. If broken, the breach cannot be regarded as a mistake of law (3). Mistakes as to what is the law serve to excuse cases where correct knowledge could be reasonably expected only from a professional man, and even in such cases if the directors feel any doubts they may be guilty of neglect if they fail to seek and be guided by competent legal advice (4). But ignorance of any fact in the Bank's affairs, which it is their duty to know, can never be set up by them in defence or exculpation for any act which the existence of that fact should have prohibited (5).

THE LIABILITY AN ASSET OF THE BANK.—If liability of a director once accrues for any species of malfeasance in office, whether his acts have been the result of dishonesty, negligence, or incompetence, the claim of the bank against him becomes a part of the assets of the institution. An assignee or other party whom

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(1) Section 48. (2) Section 49.

(3) *Schley v. Dixon*, 24 Geo. 273.

(4) *Goibbold v. Branch Bank*, 11 Ala. 191.

(5) *Bank Commissioners v. Bank of Buffalo*, 6 Paige 497.