

power to make the issue is one of the ordinary and inherent functions of the board which the public has a right to presume is vested in, and will be honestly exercised by, the directors. The bank is held to warrant their fidelity. If the issue is attended with any error, neglect, or fraud, the resulting loss is that of the bank. For example, if there be, from any of these causes, an over-issue, the bank must yet redeem all the notes in the hands of innocent holders (1), and pay any penalty which may be imposed by the legislature in cases of over-issue (2). The transaction, falling within the ordinary scope of directorial authority, is one wherein the bank guarantees both the integrity and accuracy of its agents.

63. DUTY OF DIRECTORS CONCERNING UNAUTHORIZED ILLEGAL ACTS OF OFFICERS.—It will sometimes happen that a subordinate officer will do an act either illegal or fraudulent, which is of such a nature or done in such a manner that it does not necessarily bind or affect the bank. Thus the conduct of a single official may be such that, if it could be construed as the action of the corporation, it would cause a forfeiture of the charter: but if it be without the direction or privity, *a fortiori*, if it be contrary to the actual orders of the board of directors, the punishment will be meted solely to the wrong doer, and it will be considered that the nature of the case furnishes no ground for proceeding for forfeiture or penalty against the bank itself. But whenever knowledge of the commission of an act of this description, any or all the possible results of which might be averted from the Bank, is brought home to the directors, it is incumbent upon them at once to disavow the doings of their officer on behalf of the body corporate, to decline to allow the corporation to receive any benefit from them, and so far as can be done reasonably and without injury, to seek to undo the transaction if it be still inchoate or imperfect. If the whole affair is completed and can no longer be repudiated or undone, or if no good or just end could be attained by the repudiating or undoing when knowledge of it first reaches the board, still it is their duty promptly to remove the official who was guilty of the misdemeanor. If they neglect these steps, if they knowingly suffer the bank to reap advantage from the wrongful conduct, or if they continue to retain the wrong-doer in the service of the bank

(1) *McDonough v. Belamy*, 18 Ga. 411.

(2) Section 51, sub-section 3.