

THE
STATUTES AT LARGE
OF THE
STATE OF MINNESOTA

COMPRISING

THE GENERAL STATUTES OF 1866

As amended by subsequent Legislation to the close of the Session of 1873

TOGETHER WITH

ALL LAWS OF A GENERAL NATURE IN FORCE, MARCH 7, A.D. 1873

WITH REFERENCES TO

JUDICIAL DECISIONS OF THE STATE OF MINNESOTA, AND OF OTHER
STATES WHOSE STATUTES ARE SIMILAR

TO WHICH ARE PREFIXED

THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT,
THE ACT AUTHORIZING A STATE GOVERNMENT, AND THE
CONSTITUTION OF THE STATE OF MINNESOTA

VOL. I.

COMPILED AND ARRANGED BY

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CHICAGO
CALLAGHAN AND COMPANY

1873

CHAPTER XIX.
OF BANKS AND BANKING.

(This Chapter is Chapter XXXIII. of the Statutes of 1866.)

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SECTION 1. *Bank notes, how and when issued.*—The auditor of state, on application of any person or association of persons wishing to organize under this chapter, shall cause to be engraved and printed in the best manner to guard against counterfeiting, such quantity of circulating notes, in the similitude of bank notes, in blank, of the different denominations hereinafter authorized to be issued, as may

from time to time be needed to meet the demands of those organizations for the purpose of banking; and all necessary expenses in procuring such circulating notes in blank, shall be charged to and paid by the banker or banking association at whose solicitation and for which the same are furnished.

SEC. 2. *Denominations of notes.*—Such bank notes shall be of the dimensions usually issued by banks, from one dollar to five hundred dollars; but such notes shall not be of any intermediate number between five and ten dollars, ten and twenty, twenty and fifty, or fifty and one hundred dollars.

SEC. 3. *To be countersigned and registered.*—Such blank circulating notes shall be countersigned by the auditor of state, and numbered, and registered in proper books to be kept for that purpose in his office and under his direction, so that each denomination of such circulating notes shall be of the same similitude and all bear the uniform signature of the auditor of state.

SEC. 4. *Auditor to receive what stocks for banking.*—Whenever any person or association of persons formed for the purpose of banking, under the provisions of this chapter, duly assigns or transfers in trust, to the auditor, any portion of the public stocks issued by any state of the United States, on which full interest is semi-annually paid, said stocks to be valued at a rate to be estimated and governed by the average rate at which such stocks have been sold in the city of New York, at the stock exchange, within six months next preceding the time when such stocks are assigned or transferred to the auditor; or any stocks or securities issued by the United States, bearing interest at a rate not less than five per centum per annum, said stocks or securities to be valued at a rate to be estimated and governed by the rate at which such stocks or securities are sold in the city of New York, at the time of the assignment or transfer to the auditor, such person or association of persons is entitled to receive from the auditor an amount of such circulating notes of different denominations, registered and countersigned, equal to the amount of public stocks so assigned or transferred; such state stocks shall in all cases be, or be made to be, equal to stocks producing six per cent. per annum, except as herein provided, and the auditor shall not take any such stocks at a value above their par value, nor above ninety-five per cent. of their current market value at the stock exchange in the city of New York, at the time of such assignment or transfer to the auditor; and if at any time any of the stocks so assigned or transferred, depreciate ten per cent. or more in value at the stock exchange in New York, the auditor shall reduce the rate at which such stocks shall be held as securities, and shall require such banker or banking association owning such stocks to make up such deficiency with additional stocks to be assigned or transferred as aforesaid, or such banker or banking association may make up such deficiency by returning to the auditor such amount of bank bills previously issued to him, as are equal to the deficiency of security caused by such depreciation. No stocks shall be received by the auditor until the same are submitted to the governor and approved by him; and if, in the opinion of the governor and auditor, any stocks offered are deemed insecure, they shall not be received as such securities under the provisions of this chapter, nor shall any stocks which have been received as aforesaid, be withdrawn or exchanged without the joint consent of the governor and auditor.

SEC. 5. *Securities, how indorsed.*—All securities assigned and transferred to the auditor by any banker or banking association, as aforesaid, shall be indorsed at

the time of such assignment and transfer, with a certificate which shall state the time of the assignment and transfer, by whom and for what purpose such security is assigned and transferred; and that the same is not to be withdrawn without the consent of the auditor indorsed thereon, and countersigned by the governor.

SEC. 6. *Securities becoming insecure, how managed.*—Whenever the securities so assigned and transferred to the auditor by any banker or banking association, for the redemption of their circulating notes, shall, in the opinion of the auditor and governor, become insufficient for that purpose, the auditor may receive the interest and dividends on all securities, and shall deposit the same with some safe banking association; the deposit to be made on such terms and at such rate of interest as the auditor and governor determine, and be withdrawn and paid over whenever, in their opinion, such securities are sufficient to warrant it.

SEC. 7. *Securities not to be used to pay fees of protest.*—No portion of the securities deposited, assigned, or transferred to the auditor by any banker or banking association to be used as security for the circulating notes of such banker or banking association, shall be applied to the payment of fees for protesting any of their circulating notes.

SEC. 8. *Bills, how engraved.*—The words “secured by the pledge of public stocks” shall be engraved upon the face of all bills and notes, the payment of which is secured by the transfer of public stocks.

SEC. 9. *Auditor may give power of attorney to receive interest.*—The auditor may give to any person or association transferring securities in pursuance of the provisions of this chapter, a power of attorney to receive interest or dividends thereon, which person or association may receive and apply to their own use, but such power may be revoked upon such person or association failing to redeem the circulating notes so issued, or when, in the opinion of the auditor or governor, such securities become insufficient to secure their circulating notes as hereinbefore provided; and the auditor, upon application of the owners of such transferred securities in trust, may, with consent of the governor, change or transfer the same for other securities of the kind specified in this chapter, or may transfer the said securities, or any part thereof, upon receiving and canceling an equal amount of the circulating notes delivered to him by such person or association, in such manner that the circulating notes shall always be secured in full, as in this chapter provided.

SEC. 10. *Office of discount, where established.*—Any person or association of persons may establish offices of discount, deposit, and circulation, and become incorporated upon the terms and conditions, and subject to the liabilities prescribed in this chapter, but the aggregate of the capital stock of such establishment shall not be less than twenty-five thousand dollars, and no such office shall be established in any town containing less than two hundred inhabitants.

SEC. 11. *Certificate, what to specify.*—Such person or association of persons under their hands and seals, shall make a certificate which shall specify:

First. The name assumed to distinguish the bank, and to be used in all its dealings, which name shall not be that of any other bank in this state.

Second. The place where the business of discount or deposit is carried on.

Third. The amount of capital stock, and the number of shares into which the same shall be divided.

Fourth. The name and place of residence of the shareholders, and the number of shares held by them respectively.

Fifth. The period at which said bank shall commence and terminate, which certificate shall be acknowledged and recorded in the office of the register of deeds of the county where the office of such bank may be established, and a copy thereof shall be filed in the office of the auditor of state, and upon the recording of such certificate, the person or persons aforesaid shall become a body politic and corporate, by the name assumed as aforesaid, for and during the time fixed in such certificate, and by such name shall have power to contract, and be contracted with, sue and be sued, and shall have all other powers, privileges, and immunities, incident to corporations, and applicable to the ends of such establishments, subject to the restrictions and provisions of this chapter.

SEC. 12. *Copy of certificate evidence, when.*—A copy of the certificate required by the preceding section, duly certified by the register of deeds of the county, or by the auditor of state, may be used as evidence in all courts for or against such bank; or any person for or against whom such evidence is necessary, whether on civil or criminal trial.

SEC. 13 (AS AMENDED BY ACT OF MARCH 5, 1869). *Banking powers defined.*—Such person or association has power to carry on the business of banking, by discounting bills, notes, and other evidences of debt, by receiving deposits, by buying and selling gold and silver bullion, foreign coin, and foreign and inland bills of exchange, by loaning money on real and personal securities, and by exercising all the usual and incidental power and privileges belonging or appertaining to such business; may choose one of their number president, and may appoint a cashier, and such other officers as their business may require, and remove such president, cashier, officers, and agents, at pleasure, and appoint others in their places; but no circulating notes shall be issued to any such association or banker by the auditor of state under the provisions of this chapter, until such association or banker shall have deposited with such auditor the securities prescribed in the fourth section of this chapter: *provided*, that nothing in this chapter contained shall be construed to require the deposit of any such securities by any such association or banker, unless such association or banker shall desire, and apply to the auditor of state for such circulating notes.

S. L. 1869, 101.

SEC. 14. *Shares to be personal property—how transferable.*—The shares in such bank are personal property, and transferable on the books of the bank, in such manner as may be agreed upon in the articles organizing such bank, or prescribed in its by-laws, and every person becoming a stockholder therein, shall, in proportion to his interest, succeed to all the rights, and be subject to all the liabilities, of prior shareholders; no change shall be made in the articles organizing such bank, whereby the rights, remedies, or securities of existing creditors shall be in any manner impaired, and any association constituting such bank shall not be dissolved by the death or insanity of any one of the shareholders therein.

SEC. 15. *Failure to redeem notes—same may be protested.*—If the maker of any circulating note, countersigned and registered as aforesaid, shall at any time, on lawful demand during the usual hours of business, at the place where such note is payable, fail or refuse to redeem such note in the lawful money of the United States, the holders of such note making such demand, may cause the same to be protested for non-payment by a notary public under his official seal. But the maker or makers of such note shall not be liable for the expense of so protesting the same, unless on

such demand and refusal so to redeem the same, he refuses to waive protest, and notice of protest thereon, and such waiver of protest in all cases is equivalent to the regular protest thereof; and such notary shall, on protesting the same, forthwith forward notice of such protest to the auditor of state; the notary making such protest shall certify in his notice of protest, the number of notes on which said payment was refused, and describe them by their numbers and letters, and shall also certify to the aggregate amount of said notes; the auditor of state on receiving and filing in his office such protest, together with such notice as aforesaid, shall forthwith give notice in writing to the makers of such note to pay the same, and if they omit to do so for forty days after such notice, the auditor shall immediately thereupon, unless he is satisfied there is a good and legal defense against the payment of such note, give notice that all the circulating notes of such person or association, and countersigned and registered as aforesaid, will be redeemed out of the trust funds in his hands for that purpose, which notice shall be given by publishing the same in some newspaper printed in the county where the business of such bank is established, if any, and in some newspaper printed at the capital of this state, and the auditor shall apply the said trust funds belonging to the maker of such protested note to the payment of all circulating notes, whether protested or not, put in circulation by the maker of such protested note, pursuant to the provisions of this chapter, and adopt such measures for the payment of such notes, as will, in his opinion, most effectually prevent loss to the holder; and to this end the auditor may, after the expiration of the said forty days, and after giving thirty days' notice by publication in a newspaper printed and published at the capital of this state, and in a daily newspaper printed in the city of New York, proceed to sell at the Merchants' Exchange in the city of New York, at public auction, the securities so pledged, and out of the proceeds of such sale, shall pay *pro rata* and cancel all bills and notes which have been issued and put in circulation by such bank, under the provisions of this chapter; but nothing in this chapter contained shall be considered as implying any pledge on the part of this state for the payment of such bills or notes beyond the proper application of the securities pledged to the auditor of state for their redemption.

SEC. 16. *Damages for failure to redeem bills.*—Such bank or banking association is liable to pay the holder of every bill or note put in circulation as money, the payment of which has been demanded or refused at the banking house or usual place of business of such association or bankers, damage for non-payment thereof from the time of such refusal until the payment of such evidence of debt and damages thereon.

SEC. 17. *Amount of bills countersigned.*—The auditor of state shall not countersign bills or notes for any association or banker, to an amount in the aggregate exceeding the securities at their value, as before provided in this chapter, deposited with him in trust by such association or banker, or use or dispose of such securities in any manner other than provided for in this chapter, and any auditor of state or deputy, who violates the provisions of this section, shall be deemed guilty of a felony, and be punished by a fine not less than five thousand dollars, or be imprisoned not less than five years in the state prison, or by both such fine and imprisonment.

SEC. 18. *Capital stock, how increased.*—It shall be lawful for any person or association of persons organized under the provisions of this chapter, by his or their

articles of association, to provide for an increase of their capital stock, and of the numbers of such association from time to time, as they may think proper.

SEC. 19. *Contracts by banks, how made.*—Contracts made by any bank or banking association, established under the provisions of this chapter, and all notes and bills issued and put in circulation as money, shall be signed by the president and cashier thereof, and all actions and proceedings brought or prosecuted by and in behalf of such bank or banking association, shall be brought and prosecuted in the corporate name mentioned in the certificate made and filed as hereinbefore required.

Dana v. Bank of St Paul, 4 Minn. 385. *Vide* also 16 Wis. 120, cashier may bind bank by signing note without signature of president and vice-president. *Vide* also 16 Wis. 679; 12 Wis. 629; 13 Wis. 653, as to general powers of banks.

SEC. 20. *Banks may hold real estate.*—Such bank or banking association may purchase, hold, and convey real estate for the following purposes :

First. Such as is necessary for the immediate accommodation in the convenient transaction of its business.

Second. Such as is mortgaged to it in good faith by way of security for loans made, or money due to such bank.

Third. Such as is conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth. Such as it acquires by sale on execution or judgment of any court in its favor. The said bank shall not purchase, hold, or convey real estate in any other case or for any other purpose whatever, and all conveyances of such real estate shall be made to the corporation, and the president and cashier may sell, assign, grant, or convey the same under the direction of the association free from any claim thereon in favor of or against the shareholders or any person claiming under them.

SEC. 21. *List of names of shareholders to be kept and filed.*—The president and cashier of every bank formed pursuant to the provisions of this chapter, shall at all times keep a true and correct list of the names of all the shareholders of such bank, with the amount of stock held by each, the time of transfer, and to whom transferred, and shall file a copy of such list in the office of the register of deeds of the county wherein such bank is located; and also in the office of the auditor of state on the first Monday in January and July in each year, and the stockholders in each bank shall be individually liable in an amount equal to double the amount of stock owned by them for all the debts of such bank, and such individual liability shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

19 Wis. 434; 20 Johns. 669.

SEC. 22 (AS AMENDED BY ACT OF MARCH 5, 1869). *Billholders to have preference.*—In the event of the insolvency of any bank established under the provisions of this chapter, the billholders (if any) thereof shall be entitled to preference in payment over all other creditors of such bank.

S. L. 1869, 101.

SEC. 23. *Bills of banks, where payable.*—It shall not be lawful for any bank formed under the provisions of this chapter to make any of its bills or notes to be put in circulation as money, payable at any other place than the office where the business of the bank is carried on and conducted, nor to issue the same at any

other place; and said bills or notes shall be made payable on demand and without interest.

SEC. 24 (AS AMENDED BY ACT OF MARCH 5, 1869). *Manner of relinquishing business and closing a bank.*—When any owner of a bank to which circulating notes shall have been issued under this chapter desirous of relinquishing the banking business, notifies the state auditor of such intention, it is competent for such bank or bankers to redeem and deposit with the auditor of state from time to time their circulating notes, in sums of not less than one thousand dollars at any one time, and receive and withdraw therefor, an equal amount of the securities by them deposited with the auditor of state; but no such bank shall continue to transact any business whatever further than what may be required to settle up its affairs after its securities or circulation shall have been reduced to twenty-five thousand dollars, nor in any case after two years from the date of such notice of intention to relinquish and close up their banking business as aforesaid. And whenever any bank or banker to which circulating notes shall have been issued under this chapter desires to withdraw all the securities lodged with the auditor of state, they may, upon notifying the auditor of such desire, deposit from time to time with such auditor their circulating notes in sums of not less than one thousand dollars at a time, and upon such deposit withdraw an equal amount of such securities, and when such bank or banker shall have so deposited as many of such circulating notes as after reasonable efforts on their part in that behalf have been presented to them for redemption, they may withdraw the balance of such securities by producing and filing with the auditor a certificate of deposit to his credit in such bank as he shall approve of, an amount equal to the amount of the circulating notes of such bank then remaining unredeemed; and the auditor, upon being satisfied of such deposit and of the sufficiency thereof, shall give up all the remaining securities of such bank: *provided*, that such bank or banker shall not thereafter, nor shall any bank or banking association organized and doing business under this chapter, at any time, issue and put in circulation as money any bills or notes unless obtained of the auditor of state in the manner and upon the securities prescribed in this chapter.

S. L. 1869, 102.

SEC. 25. *Two years' notice of final redemption of notes to be given.*—Such banking association or banker, after having complied with the provisions of the preceding section, shall give notice for two years in some newspaper printed in the county where such bank is located, if any, and in a paper printed at the capital of this state, that all circulating notes issued by such banking association or banker, must be presented at the auditor of state's office within two years from the date of such notice, or that the funds deposited for the redemption of the notes will be given up to the banking association or banker, and on receiving satisfactory proof of the giving of such notice for the time aforesaid, the auditor of state shall surrender to the order of such banking association or banker any securities which he may hold for the payment of any unredeemed notes of the said banking association or banker.

SEC. 26. *Securities, how withdrawn.*—Any banking association or banker wishing to withdraw any of the securities by them deposited with the auditor of state, may do so by depositing an equal amount of the circulating notes which have been issued to said association or banker by the auditor of state, in sums of

not less than one thousand dollars: *provided*, that the amount of funds thus withdrawn by deposits of said circulating notes shall not reduce the amount of stock securities remaining in the hands of the auditor to less than twenty-five thousand dollars.

SEC. 27. *Securities to be held in trust for redemption of bills.*—The securities to be deposited with the auditor of state in trust by any association or banker, shall be held by him exclusively for the redemption of the bills or notes of such bank, put in circulation as money, until the same are paid and returned to the auditor, as provided in this chapter, but the auditor may assign said securities to said association or banker, transferring the same upon receiving therefor equivalent securities or an equivalent amount in circulating notes issued by such bank, as provided in the preceding section.

SEC. 28. *Returned notes to be destroyed.*—All circulating notes of banks or banking associations returned to the auditor shall be destroyed by him in presence of the governor and an authorized officer of the bank, after he has made a record of the same, which shall specify the number of each note, its date, and shall be made in the books to be kept by himself for registering circulating notes.

SEC. 29. *Mutilated notes, how exchanged.*—The auditor shall receive mutilated circulating notes issued by him, and after making a record of them, their denomination and amount, deliver in lieu thereof circulating notes to the same amount.

SEC. 30. *Debts of banks payable in bills of banks.*—All of the bills or notes of any bank or banking association shall be at all times received by the same in payment of all debts due to such bank or banking association.

SEC. 31. *Capital reduced—no dividends.*—If any portion of the declared capital of any banking association is reduced for any purpose whatever while any debts of the association remain unsatisfied, no dividend or profits in the shares of the capital stock of the association shall thereafter be made until the deficit of the capital is made good, either by subscription of the shareholders, or out of the subsequent accruing profits of the association; and if it appears that any such dividends have been made, it shall be the duty of any judge of the district court of the county in which said bank is located, on application of any person in interest, to make the necessary orders and decrees for the closing of the affairs of the association, and distribute its property and effects among its creditors and shareholders.

SEC. 32. *Penalty for issuing illegal currency.*—The officers or agents of any banking association or banker who shall pay out, to be put in circulation as money in this state, any bill, note, certificate of deposit, or other paper having the similitude of a bank note, knowing the same to have been issued otherwise than by the authority of this or some other state of the United States, of the congress of the United States, or of the British possessions, shall, for each offense, upon conviction thereof, be adjudged guilty of a misdemeanor, and shall be punished by a fine of not less than one hundred dollars, or by not more than twelve months' imprisonment, or both by fine and imprisonment.

SEC. 33. *Bank rate of interest.*—Such bank or banking association may demand and receive for loans on real and personal security, or for notes, bills, or other evidences of debt discounted, such rate of interest as may be agreed upon by the parties, not exceeding twelve per cent. per annum, subject, however, to such

general laws regulating and fixing the rate of interest as may hereafter be passed by the legislature; and it shall be lawful to receive the interest in advance, according to the ordinary usage of banking institutions, and in general to do all things and have all the privileges incident to banking associations or corporations.

SEC. 34. *Quarterly report to be filed and published—what to contain.*—Every bank or banking association shall, on the first Monday of January, April, July, and October in every year, after having commenced the business of banking as provided in this chapter, make and transmit to the auditor a report, sworn to by the president and cashier, and containing a true statement of the following items on the mornings of the first Monday of January, April, July, and October, before any business of that day: loans and discounts, over drafts due from banks, due from directors of said bank, due from broker, real estate, specie, cash items, stocks, and promissory notes, bills of solvent banks, bills of suspended banks, loss and expense account, capital, circulation, amount due to state treasurer, amount due to depositors on demand, amount due not included under either of the above heads; and the auditor shall publish said report, once in some newspaper printed at the capital of the state, and in the county in which said bank or banks are located, if any, and the expense thereof shall be defrayed by the banks, and if any bank fails to furnish to the auditor its quarterly report in time for such publication, or fails to pay the expenses incurred in the publication of its report when they are demanded by him, it shall forfeit and pay the auditor the sum of one hundred dollars, to be applied by him to the expense of publishing the quarterly reports, and the auditor of state is authorized to collect the said forfeiture in his name, upon his application to any court of competent jurisdiction in the county where such delinquent bank may be located; the auditor shall also transmit annually to the legislature at the commencement of its session a condensed summary of all the items reported to him by all the banks, which summary shall contain a true and correct statement of the condition of all the banks in the state, at the time of the making of their last report.

SEC. 35. *Unclaimed interest and dividends—statement of to be published.*—Every bank and banking association, formed under the provisions of this chapter, shall annually, on the first Monday of January in each year, cause to be published for six successive weeks, in one public newspaper printed in the county in which such bank may be located, if any, and in some newspaper printed at the capital of this state, a true and accurate statement, verified by the oath of the cashier, of all deposits made with said bank, and of all dividends and interest declared and payable upon any of the stocks, bonds, or other evidences of indebtedness of said bank, which at the date of such statement have remained unclaimed by any person or persons authorized to receive the same, for two years then next preceding.

SEC. 36. *Statement, what to contain.*—Such statement shall set forth the time that every such deposit was made, its amount, the name and residence, if known, of the person making it, the name of the person in whose favor the dividend or interest may have been declared, its amount, and upon what number of shares, and on what amount of stocks, bonds, or other evidence of indebtedness of any such bank or banking association.

SEC. 37. *Plates and dies of closed banks to be destroyed.*—All plates, dies, and like materials of and peculiar to, any individual bank or banking association which has closed business, either by its own voluntary act, or by operation of law, under the direction of the auditor, in presence of the governor and treasurer of state,

shall be destroyed; and such destruction, specifying the articles so destroyed, shall be officially certified to by all the three aforesaid officers.

SEC. 38. *Legislature to appoint committee of examination.*—The legislature shall annually elect a joint committee, whose duty it shall be to examine the treasurer's accounts, and the sureties deposited in the auditor of state's office, by banking associations and individual banks, together with all books and papers therein relating to the business of banking, and the said committee shall report the true state and condition of that department to the legislature.

SEC. 39. *Penalty for false statement.*—Every officer, agent, or clerk of any banking association or banker authorized by this chapter, who willfully and knowingly subscribes, or makes any false statement of facts, entries in the books of such person or association, or knowingly subscribes or exhibits false papers with the intent to deceive any person authorized to examine as to the condition of such bank or association, or willfully and knowingly subscribes and makes false reports, shall be deemed guilty of felony, and shall be subjected to imprisonment at hard labour in the state prison, for such term not less than one year nor more than ten years, as the court trying him shall designate.

SEC. 40. *Auditor to give bond.*—The auditor of state shall, before entering upon his duties under this chapter, give to the state of Minnesota a bond in the penal sum of fifty thousand dollars, with not less than five sureties to be approved by the governor and secretary of state, conditioned for the faithful discharge of all the duties of his office provided for and incumbent upon him under this chapter, and deposit the same in the office of the state treasurer; and the auditor of state shall not be directly nor indirectly interested in any bank or banking association, or as an individual banker.

SEC. 41. *Auditor's fees for issuing notes.*—Any banker or banking association that shall organize under this chapter, shall pay the auditor for the services performed by him or under his direction, in behalf of such banker or banking association (according to the provisions thereof), one-fourth of one per cent. on the amount of circulating notes countersigned and registered as hereinbefore provided, and the auditor may require the same to be paid at the time of the delivery of such notes.

SEC. 42. *Auditor's fees for redeeming notes.*—In case the securities deposited with the auditor of state to secure the redemption of the circulating notes of any bank shall be sold in pursuance of the requirements hereof, one-eighth of one per cent. on the amount received for the same shall be allowed the auditor of state, for his services in selling the stock and redeeming the notes of such bank, and the amount of such per centage, together with all necessary expenses incurred in advertising and selling such stock, shall be audited by the state treasurer, and on his certificate the auditor of state may deduct the same from the proceeds of such sale.

SEC. 43. *Penalty for violating provisions of this chapter.*—Any person or persons violating any of the provisions of this chapter, not hereinbefore specially provided for, shall upon conviction thereof, pay a fine not less than fifty dollars or more than five hundred dollars for each and every offense, to be recovered before any court having competent jurisdiction, and all fines and penalties so recovered shall be paid into the state treasury.

SEC. 44. *Bank franchises, when forfeited.*—Every bank or banking association organized under the provisions of this chapter, which refuses or neglects to comply with any requirement lawfully made upon it by the auditor of state pursuant to

this chapter, for the period of ninety days after demand made, shall be deemed to have forfeited its franchises, and any failure on the part of such bank or banking corporation to comply with, or any violation of any of the provisions of this chapter, shall work a forfeiture of its franchises, and in either case the attorney general, upon demand of the auditor of state, shall commence an action for the purpose of annulling the existence of said corporation. Whenever any banking corporation is dissolved by the proceedings directed in this section, the state auditor shall proceed to sell the securities and redeem the currency of said bank in the same manner as provided by section fifteen of this chapter.

SEC. 45. *State bank re-organizing as a national bank may have securities surrendered.*—Whenever any bank or banking association, which has heretofore been incorporated under the provisions of this chapter, has re-organized as a national bank, pursuant to the act of congress of the United States, approved June third, eighteen hundred and sixty-four, entitled an act to provide a national currency, secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof, the auditor may surrender to such national bank the securities in his hands deposited by such state bank, upon receiving from such national bank an amount of lawful money of the United States equal to the amount of the outstanding notes of such state bank, to be held and applied by him to the redemption of such outstanding notes.

SEC. 46. *Notice to be given as of final redemption of bills.*—Upon receiving such notes or securities, such bank or banking association shall give the same notice as is required by the twenty-fifth section of this chapter, and upon the expiration of the time specified in such notice, he shall surrender to the national bank which deposited them, such notes or security: *provided*, all the circulating notes issued by such state bank, which have been presented, have been redeemed.