

terest dividend until the president, cashier or some agent of said bank shall present to the Auditor a receipt, in full, for all tax due from such bank, or until the tax shall have been paid, as herein provided; and when said tax is paid, in the manner provided by this act, then the Auditor shall deliver to said bank or banks the remainder of the coupons or interest dividend due them, respectively.

§ 4. In addition to the amount of said coupons or interest dividend, required for the payment of said tax, the Auditor shall be allowed to retain one per cent. on each one hundred dollars paid out as tax, as his commission for the labor and responsibility devolved upon him by the provisions of this act. Auditor's commission.

§ 5. This act shall be in force from and after its passage.  
APPROVED February 18, 1861.

AN ACT to amend the General Banking Law, in such manner as to afford greater security to the public. In force February 14, 1861.

## ARTICLE ONE.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That the stocks which banks now or hereafter to be organized under the general banking laws of this State shall hereafter deposit with the Auditor, as security for circulating notes to be issued thereon, shall be the stocks of the State of Illinois, and no others; and it shall be lawful for the Auditor to receive such stocks at their par value.

§ 2. Whenever any bank, now organized under the general banking laws of this State, shall be desirous of exchanging any of the stocks deposited by it with the Auditor for banking purposes, the average market value of which for the last two years have been below par, for the stocks of any State of the United States, the average market value of which for the last two years have been above or equal to par, it shall be lawful for the Auditor to make such exchange, and receive the latter stocks at their current market value, not exceeding their par value. Such privilege of exchanging stocks at the rate aforesaid, shall only continue until the first day of September next, and all such exchanges or substitutions, after that period, shall be at the ten per cent. margin heretofore provided by law. The exchange of stocks.

§ 3. Whenever (after the first day of July next) any of the stocks deposited by any bank in this State with the Auditor, for banking purposes, shall, from any cause, become depreciated in value for sixty days, below the rate at which the same were deposited, and circulation issued thereon, it shall be the imperative duty of the Auditor to immediately The depreciation of stocks.

call upon such bank to make up such deficiency, either by a return of its circulating notes, or by a deposit of additional stocks; and if, upon due notice, such bank shall neglect or refuse to comply with the requisition of said call within thirty days, it shall, for such default, forfeit its charter privileges and be put into liquidation by the Auditor, in the manner now provided by law in case of a failure to redeem its circulating notes on demand.

Protests.

§ 4. While any bank is under a protest for a failure to redeem its circulating notes on demand, as now provided by law, or under a call to make up deficiencies in its securities, or in process of liquidation, the Auditor, upon demand, shall sell, without notice, and deliver to the holder of any of the circulating notes of such bank, any of the securities deposited by such bank with the said Auditor for banking purposes; the amount of securities to be sold and delivered, as aforesaid, to be in proportion to the amount of circulating notes surrendered therefor, in the same proportion that the whole amount of securities of such bank, deposited with the Auditor, estimated at their cash value at the time of such delivery, as aforesaid, bear to the whole amount of circulation then outstanding. *Provided*, that in no case, however, shall the Auditor deliver to the said holder, as aforesaid, more than par value of the circulating notes returned: *And, provided further*, that no bank in this State shall forfeit its charter privileges, or be liable to have its bonds sold to redeem its circulating notes, while in default as aforesaid, except in the manner provided for in this section, until after the expiration of six months from the passage of this act. For his services under this section, the Auditor shall be entitled to demand and receive from each holder, as aforesaid, one-half of one per cent. as his compensation.

Banks in liquidation.

§ 5. Any bank in this State whose circulating notes shall, within sixty days from the passage of this act, be amply secured by its stocks on deposit with the Auditor, shall not be liable to be put in liquidation, or have its stocks sold for a failure to redeem its circulating notes on demand, for six months from and after the passage of this act: *Provided*, that in case at any time during the said six months said stocks shall again become depreciated in value for ten days, such depreciation shall be made up, upon notice of the Auditor, within ten days from date of notice, or the bank shall immediately forfeit and be deprived of all the privileges and exemptions of this section: *And, provided further*, that the exemptions of this section shall not be construed so as to prevent the Auditor from delivering to the holder of any of the circulating notes of any bank in default, in the manner described in the preceding section, the stocks of such bank, as provided for in such section; but such power of the Auditor to deliver the said bonds to the billholder shall not apply to any bank whose circulation shall be secured as aforesaid while so secured.

## ARTICLE TWO.

§ 1. Every bank in this State, except those whose place of business is in the cities of Chicago or Springfield, may appoint an agent, who shall keep an office in the said cities of Chicago or Springfield, for the redemption of its circulating notes which shall be presented to such agent for payment or redemption, subject to the conditions hereinafter provided for. Agent for redemption.

§ 2. Such agent shall be appointed in writing, and such appointment in writing shall be delivered to the Auditor within ten days after making of the same, and shall be filed in the said Auditor's office; and the Auditor shall, immediately thereafter, publish a list of the agent or agents thus appointed in a daily paper published in the city of Chicago, and also in a daily paper published in the city of Springfield, and also in the county where such bank is located, if any paper is published there, for such time as he may think proper, and the expenses thereof shall be paid by the bank or banks above mentioned.

§ 3. It shall be the duty of every bank, as aforesaid, out of the cities of Chicago and Springfield, to redeem and pay, on demand, all circulating notes issued by such bank presented for redemption or payment at the office of its said agent in the cities of Chicago or Springfield, at a rate of discount not exceeding three-quarters of one per cent., until January, 1862, and not exceeding one-half per cent. thereafter. Discount.

§ 4. Every such bank whose agent shall neglect or refuse to redeem its notes on demand, as aforesaid, shall pay, to the person making such demand, interest upon the notes so demanded at the rate of twenty per cent. per annum; and if such redemption and payment of interest is not made at said office within twenty days from the time when first demanded, such bank shall be liable to be proceeded against and put in liquidation by the Auditor in the manner now provided for by law in case of failure to redeem its circulating notes on demand.

§ 5. Appointments of agents made in pursuance of this act may be revoked, and new appointments made, from time to time, by delivering such revocation and appointment to the Auditor, who shall cause the same to be published as hereinbefore provided for: *Provided*, that no revocation shall take effect unless accompanied with such new appointment. Appointments of agents.

§ 6. It shall be lawful for any number of banks authorized by this act to appoint agents to associate together for raising a joint fund, to be placed in the hands of their common agent, for the redemption of their circulating notes in the cities of Chicago or Springfield, and also the circulating notes of other banks, in such manner and under such

regulations as may be agreed upon, and to employ such agents and clerks as they may deem necessary to carry on the business of such common agency; but nothing in this section contained shall authorize the redemption or purchase by such agency of any circulating notes at a rate of discount greater than is hereinbefore provided for, nor relieve such banks from any duty or liability required or imposed by this act.

Protests.

§ 7. Every bank in this State that shall comply with the provisions of this act by the appointment of an agent as aforesaid, or shall redeem its bills at par in Chicago or Springfield, shall be allowed thirty days after notice of protest from the Auditor for non-payment of its circulating notes on demand, at the place where such bank is located, for the redemption of such protested notes, with interest thereon at the rate of six per cent. per annum only.

§ 8. No bank shall hereafter be organized under the general banking laws of this State, that shall not, before the delivery to it of any circulating notes by the Auditor, appoint an agent in the manner provided for in this act, and become subject to the conditions herein in this act contained, nor shall it be lawful for the Auditor to issue any additional circulation to any bank now organized in this State until such bank shall have appointed such agent as aforesaid, and accepted the provisions of this act.

### ARTICLE THREE.

Treasurer's vault.

§ 1. It shall be the duty of the State Treasurer to cause the present vault in his office to be properly and securely lined with iron, in such a manner as to make the same fire proof, and also to cause said vault to be divided by partitions, consisting of two separate iron doors, with a space between; said doors to be secured by good and sufficient locks, opening with different keys, so that neither lock can be opened with the key to the other. The inner vault thus constructed shall be kept exclusively for the banking department, and shall contain all the bonds deposited by the banks for banking purposes; and the key to the outer door of said inner vault shall always be kept by the Auditor, and the key to the inner door of the same shall always be kept by the State Treasurer; and said inner vault shall not be opened, nor the bonds taken therefrom, at any time, except in the presence of the said Auditor and the State Treasurer: *Provided*, that in the case of sickness or absence of the said Auditor or the said Treasurer, they may respectively empower, in writing, under their official seals, the Governor or the Secretary of State to act as their substitutes under the provisions of this section; but in no case shall the Governor or Secretary of State represent more than one of said officers at any one time.

§ 2. The State Treasurer shall assess and collect from the banks in this State, *pro rata*, upon their circulation, a sum sufficient to pay the expenses of the work on the vault in his office, as provided for in the preceding section; and in case any deficiency shall exist in consequence of the failure of any bank to pay its assessment, such deficiency may be paid out of the revenue fund, upon the Auditor's warrant drawn for that purpose, to be repaid by such defaulting banks.

§ 3. The Auditor shall, in the presence of the State Treasurer, count and seal up with his official seal, in separate packages, all blank circulating notes in his possession, in such manner that the notes belonging to the different banks shall be in separate packages; and the Treasurer shall at the same time, count said notes with said Auditor, and after the packages are delivered to him, he shall mark the contents thereon, and place cross-bands upon the same, fastened together upon the two sides of the packages with his official seal, in such manner that said notes cannot be abstracted without breaking said seals; and he shall thereupon give to the Auditor and to the respective banks, memoranda or receipts for the notes thus delivered to him, and place said packages of notes in his safe, where they shall remain, unless withdrawn, as hereinafter provided. *Provided*, that said notes shall be destroyed by the Auditor and Treasurer, whenever the bank or banks to which they belong shall so request, or whenever such bank or banks shall be wound up or put into liquidation.

Blank notes.

§ 4. No more circulating notes shall be printed, unless the order for the same shall be signed by the Auditor, Treasurer, and president or cashier of the bank; and the plates, dies and materials heretofore provided by the Auditor for printing and marking bank notes, or hereafter procured, shall be deposited in some safe and secure place, subject to be withdrawn therefrom only upon order of said Auditor, Treasurer and banks, unless some such banks shall go into liquidation, in which case, it shall be the duty of the Auditor and Treasurer to cause all bank notes, plates, dies, and materials aforesaid, pertaining to such bank, to be destroyed.

§ 5. Whenever any blank circulating notes shall be printed, they shall be sent, under the seal of the printers, to the State Treasurer, who shall keep them sealed up securely in his safe or vault, giving to the Auditor and bank receipts therefor, until they shall be demanded, upon the joint order of the bank and Auditor, for circulation, or the redemption of mutilated notes, when he shall deliver to the Auditor so many of the same as shall be equal in value to the mutilated notes returned, or to the securities deposited for circulation and delivered to him, said securities being valued as required by law.



Bank Register.

§ 6. The register or registers, appointed by the Auditor, shall personally register all bank notes, and no other person or persons shall sign their name. Neither of said registers, nor any clerk or employee in the office of the Auditor or Treasurer, shall act as the agent or attorney of any bank, or as cashier or president thereof.

§ 7. The third specification of the thirty-fourth section of an act entitled "An act to establish a general system of banking," approved February 15th, 1851, shall be so construed as to require the report to show only the amount due by bills or notes discounted; and so much of the same as is inconsistent herewith is hereby repealed.

§ 8. The Auditor shall publish in a public newspaper in Springfield, quarterly, on the first Mondays of January, April, July and October, a statement showing what bonds are then held by the Treasurer for each bank, with the valuation at which said bonds are then held, together with the amount of notes issued to each. The expenses of such publication shall be paid *pro rata* by the banks.

§ 9. The Bank Commissioners and the Governor, or any two of them, shall examine the books and securities deposited at the Auditor and Treasurer's office, once in three months, and report [the result] to the public; and shall do so at any other time, when requested by the officers of any bank—the expenses of which shall be paid by the bank or banks so applying.

Annual statement

§ 10. On the first Monday of July and January of each year, every bank or banking association in this State shall cause to be made out, under the oath of its cashier and president, a statement of the names and residences of all its stockholders, with the respective amounts or shares of stock owned by them, and transmit the same to the Auditor within ten days thereafter; and every bank or banking association shall, at the time it transmits to the Auditor the statement required by the thirty-fourth section of the act approved February 15th, 1851, as modified by this act, report the names and residences of all its stockholders, with the respective amounts or shares of stock owned by them, and shall report all transfers of stock since the last report, with date of transfer; and such statement shall, at all times during banking hours, be exhibited and shown to any person who may be desirous of inspecting the same; and every such bank shall, at all times, furnish to any person who may demand the same, the date of any transfer of stock.

Signatures of president and cashier.

§ 11. All bank bills or notes hereafter issued by any bank shall bear the genuine signatures of its president and cashier, or in lieu of the same, of the vice-president and assistant cashier; but no other person or persons shall sign the names of such officers. The authority of all presidents and cashiers of banks which have been heretofore organized without an actual *bona fide* cash capital of fifty thousand

dollars, and which are not actual banks of discount or deposit, shall be construed only to extend to the signing of the notes of such bank; and the control, management and business pertaining to any such bank or association, shall be solely exercised by the proprietor or proprietors thereof, or his or their legal attorney—said power of attorney to be deposited with and recorded in a book to be kept for that purpose, by the Auditor of Public Accounts. For the purpose of ascertaining who are the proprietors of all such banks or associations, the respective presidents and cashiers thereof shall, on the first Monday of July and January in each year, make an affidavit of the names and residences of all such proprietors, together with their respective amounts of stock, and deposit the same with the Auditor by the twentieth day of said month; and the Auditor shall enter the names of all such banks, and the proprietors thereof, in a book, to be kept for that purpose, which shall, in all business hours, be open to the inspection of the public.

§ 12. No mortgage, sale, or hypothecation of the stock of any bank described in the preceding section shall be valid, unless the same is filed and recorded in the office of the Auditor. For receiving, filing and recording all papers under this act, or the acts to which it refers, the Auditor shall be entitled to charge and receive the like fees as recorders of deeds. All entries of record in the Auditor's office, as provided in the two preceding sections, and certified copies thereof, under the official seal of the Auditor, shall be *prima facie* evidence of the facts therein stated.

§ 13. Any person or corporation who may apply to the Auditor of Public Accounts for a statement of the state of the circulation and securities of any bank or banks, and shall tender the fees hereinafter provided therefor, shall be entitled to demand and receive from said Auditor an official statement of the condition of said bank or banks, as to the circulation and securities thereof, as the same appears in his office, (if such demand is made in regular business hours of a business day in said office,) without any unreasonable delay. For such abstract, the said Auditor shall be entitled to have such fees as are now allowed to recorders for like services, and one dollar for affixing his official seal thereto.

§ 14. The Treasurer of State shall be allowed to charge and collect from the several banks of the State, as his compensation for services rendered, the following fees, to-wit:— For receiving, counting and certifying bonds, ten cents each bond; for cutting and delivering coupons, five cents each coupon; for counting bonds under examination, one cent each bond; for counting, certifying, canceling and burning notes, ten cents each certificate; for recording certificates of notes canceled, ten cents each certificate; for withdrawing bonds and taking receipts, ten cents each bond; for safe keeping of securities of banks secured by pledge of bonds, ten cents for each thousand dollars on deposit, semi-annually.

Mortgage.

Treasurer's compensation.

§ 15. Whenever the Auditor shall wish to receive from the Treasurer any bonds or securities deposited for banking purposes, by any bank then in liquidation, he shall give notice to the bank depositing the same, by letter, and to the public, by publication in some newspaper at the seat of government, that he will, on some day, not less than ten days from the publication of such notice, apply to the judge of some court of general jurisdiction, at his chambers, or in term time, as the case may be, for an order upon the Treasurer to deliver to him certain bonds deposited with him as aforesaid; and said Auditor shall, on that day, apply to said judge for an order for the delivery of said bonds, or so many of them as said judge shall direct, describing them by their numbers or otherwise; and said judge shall make such order, if the circumstances of the case, under the laws relating to banks, authorize the same; which order shall be entered of record in the records of the circuit court of Sangamon county, in vacation or term time, and a copy thereof delivered to the Auditor, who shall file the same with the Treasurer; and thereupon the said Treasurer shall deliver the bonds described in said order to the Auditor. This section shall not extend to any voluntary withdrawal of securities by banks upon return of circulation, or the surrender of notes and taking of bonds by billholders under section four of article one.

§ 16. No bank shall hereafter receive upon the deposit of bonds, circulating notes to an amount exceeding three times its *bona fide* cash capital actually paid in; and the Bank Commissioners and Auditor are hereby required and authorized to ascertain what the actual cash capital of any bank applying for circulation may be, and for this purpose either of said officers are authorized to examine any person on oath, and to compel answers under oath, from any officer or stockholder of any bank so applying, or any other person.

#### ARTICLE FOUR.

§ 1. No bank shall hereafter be organized in this State, nor shall any more circulating notes be issued to any bank in this State, unless said bank shall have a *bona fide* cash capital of at least twenty-five thousand dollars, actually paid in, in good faith, for the purpose of remaining in such bank as capital; and it is hereby declared that the bonds deposited with the Auditor shall not be considered as any evidence of the existence of capital in any such bank or association, nor of the amount and extent of such capital.

§ 2. No bank shall hereafter be established in any city or village having less than one thousand inhabitants within its corporate limits, (unless such town or city shall be a county seat,) nor in any other place than a town or city.

§ 3. Any bank now organized may change its corporate name and place of business, subject to the foregoing section and the provisions of this act, upon making and filing a new certificate with the Auditor, Secretary of State, and recorder of the county to which such bank is removed, having first published its intention of doing so, for three months, in the paper of the public printer at Springfield. All liabilities from and to such bank may be enforced in the new name, and at the new location; and its bills and circulation shall be payable at such new place, and protests and demands may be made there. All rights acquired, and all contracts made, shall be and enure to and against the said bank in its new name.

§ 4. Notes of any bank which may change its name, or location, shall not be renewed, and all notes in circulation at the time of such change shall be redeemed, and others may be issued therefor, and all the old notes of such bank shall be destroyed, in the manner now provided by law.

§ 5. No bank shall, directly or indirectly, place any money in the hands of any broker or other person or corporation in this State, to be loaned to others, or charge or take, or receive any interest, compensation or benefit whatever, from any loan made by any other person or party, whether such loan be made from its own funds or otherwise; and the person or corporation, so borrowing from said bank, or having the charge or use of said funds for the benefit of said bank, shall be held—so far as regards the billholders and creditors of such bank—to be a trustee for the benefit of such billholders and creditors, and be compellable to account to them, in a court of chancery, for such loan, deposit, and the profits thereof, as part of the assets of said bank: *Provided*, this section shall not apply to money or other funds deposited with the redeeming agency of such bank or funds deposited as a basis of drawing bills of exchange.

§ 6. It shall be lawful for any bank, organized or hereafter to be organized under the provisions of this act, or of the several acts to which this is an amendment, to withdraw from the Auditor securities deposited, by retiring its circulation, under the provisions of said acts, until such circulation shall not exceed five thousand dollars; and such bank shall not forfeit its corporate existence and privileges by such redemption of circulation and withdrawal of securities.

§ 7. No bank shall in any wise be permitted to receive from the Auditor coupons, dividends or interest upon any securities deposited with him, unless the circulation of said bank shall be amply secured at the time.

Change of name and location.

Withdrawal of securities.

Amount of stock and capital.

## ARTICLE V.

Injunctions.

§ 1. It shall not be lawful hereafter for any master in chancery, in this State, to grant injunctions to restrain the Auditor from putting any bank into liquidation and from selling the bonds of such bank to redeem its circulation for a failure to redeem its circulating notes on demand.

§ 2. No judge shall grant any injunction for the purposes aforesaid, except upon the grounds that the bank would not be bound to pay the notes protested, or where no substantial default in complying with the provisions of the law has been done or suffered by said bank, nor in any case until five days' notice shall have been given to the Auditor.

Protests.

§ 3. Protests for the non-payment of the circulating notes of any bank, at its location or agency in this State, may be made by any notary public in this State. Protests for the non-payment of such notes may be made of a package containing any number of such bank bills of one denomination; and a description of the contents of said package, by the denomination and amount of said notes in such package, shall be a sufficient description; and the certificate of such notary, with his notarial seal, that he demanded payment of the same at the time and place therein specified, shall be sufficient evidence of a demand and refusal to redeem at such time and place: *Provided*, that the bank, or its agent, on which demand is made, may examine any and all bills in said package at the time of said demand.

Notary Public.

§ 4. Any notary public who shall render a false certificate of such demand or refusal, or who shall make such demand on other than business days, and during the regular business hours, between ten o'clock A. M. and three o'clock P. M., or at any other place than where said bank shall be by law bound to redeem said notes on presentation, shall be deemed guilty of a high misdemeanor, and on conviction thereof shall forfeit his office, and shall be punished, by fine of not less than one thousand dollars, and imprisonment not less than one year nor more than two years in the penitentiary.

§ 5. If any notary public, charged with the demand and protest of the bills of any bank in this State, shall find no place of business or agency of said bank in the town or other location of said bank or in the place of its redeeming agency, or if the office of said bank or agency, when found, shall be closed during the usual hours aforesaid of any business day, the official certificate of said notary, establishing either of said facts, shall be deemed and taken to have the same effect as a demand and protest on presentment of bank notes for redemption.

§ 6. If any person or persons shall obstruct or attempt to intimidate, by threats or otherwise, the making of any

demand and protest upon any bank or its officers, the person or persons so offending, shall be deemed guilty of a misdemeanor, and may be indicted therefor, and upon conviction thereof shall be fined, in the discretion of the court, not less than one hundred dollars nor more than one thousand dollars, and imprisonment in the county jail, in the discretion of the court.

§ 7. From and after sixty days from the passage of this act banks having no place of business or officers or agents to transact it at such place, as contemplated in this act, shall forfeit all their charter privileges and be put into liquidation.

§ 8. Every banker or other person who shall make, put or cause to be put into circulation, bills or notes, to circulate as currency, purporting to be issued in conformity to the laws of this State, but which are not in conformity therewith, nor secured by bonds to the amount, nor in the manner provided by law, shall be personally liable for all such notes and bills; and every such person shall be liable to indictment for a misdemeanor, and on conviction shall be fined, in the discretion of the court, not less than one thousand dollars, and imprisoned in the penitentiary not less than one year.

§ 9. All the duties imposed upon the Auditor, Treasurer and Bank Commissioners shall be promptly performed by each of them; and all powers conferred shall be exercised promptly and efficiently, with a view to the protection of billholders and other creditors. If either of said officers shall willfully fail, neglect or refuse to perform any duty under the laws in relation to banks and banking, he shall be guilty of a misdemeanor, and, on conviction, shall be fined in any sum not exceeding five thousand dollars and not less than one hundred dollars, and shall forfeit his office; and every person injured by any such willful neglect or refusal shall have an action therefor and shall be entitled to recover three times the amount of damages proven. Any person guilty of stealing, abstracting, loaning, hypothecating or misapplying any bond deposited under the laws in relation to banks and banking, shall be guilty of felony, and on conviction, upon indictment, shall be confined in the penitentiary for a term not less than one year nor more than fifteen years.

Duty of Auditor.

## ARTICLE VI.

§ 1. In all suits at law or in equity against banking in- Suits at la w and corporations a service upon any stockholder shall be deemed good service upon the corporation, where officers of bank cannot be found, and such fact shall appear by the sheriff's return upon the summons. In every such suit against the bank, and in any suit against one or more of the stockhold- service.



ers, a summons may be served upon any stockholder, not a defendant, who shall be entered as a defendant from the date of such summons; and the judgment or decree rendered in such suit shall be a lien, as now provided by law, upon the real estate of said bank, and every stockholder so served with summons, from the day of rendition; and execution issued thereon shall be a lien on the personalty of such bank, from the delivery to the officer. The entry of judgment shall contain the names of all stockholders served. The property, both real and personal, rights, credits and effects, legal and equitable, of such bank, shall be liable, first, to be seized and sold, or applied in payment of judgments rendered against stockholders on their liability under the constitution, and the property of stockholders shall not be taken or applied until the assets of the bank are first exhausted.

§ 2. The right of contribution on the personal liability, under the constitution, shall exist among the stockholders as among co-sureties, in proportion to the amount of stock owned. Guardians and trustees, who shall invest the funds of their minor wards in bank stock, shall be personally liable, instead of such minors, up to the date of its transfer to such ward, after he arrives at age; and no transfer of stock to a minor shall release or discharge the person so transferring. No transfer of stock shall discharge the stockholder from liability for any contracts of such bank, express or implied, created or made during the time he owned the same and until the date of such transfer; nor shall any transfer, made to defraud creditors or any other person, discharge such stockholders.

§ 3. Whenever any process issued against any bank or banking association, and directed to the proper officer of the county where such bank purports to be located, shall be returned not served by the officer to whom the same was delivered, it shall be lawful to give notice to said defendants, by publication, as in case of attachment; and upon the due publication of any such notice, such bank or association shall be held to be duly served with process, and the like proceedings may be had as though personal service had been had upon the president and cashier of such bank or association; but the default, decree, judgment, or order, may, at any time, upon application made, within sixty days of the date of rendition of such judgment, be set aside, upon the court being satisfied that there exists a good defense to such action.

§ 4. Whenever any judgment shall be rendered against any such bank or association, it shall be lawful, without waiting for execution against such bank or corporation, to sue out a garnishee process against the stockholders thereof, to show cause why judgment should not be rendered against them; and upon the service of such process, the court shall

direct issue or issues to be made in the cause, and such proceedings may be had thereon as are authorized in section thirty-eight (38) of the act to establish a general system of banking, (approved February 15, 1851.) Judgment may be rendered against any one or more stockholders who may be served with process.

§ 5. In case any corporation heretofore or hereafter organized under the act to which this is amendatory, shall have retired or shall retire its circulation so that proceedings cannot be had against it, for the purpose of putting the bank in liquidation, in the manner contemplated by said act, leaving outstanding debts and liabilities; or, in case any creditor of such corporation shall have obtained or shall obtain any judgment against the same, and execution thereon shall have been or be returned unsatisfied, in whole or in part, then, and in either of such cases, any creditor holding any indebtedness or judgment, as aforesaid, against such incorporation, shall have remedy against the stockholders by the institution of a suit against such corporation, in law or equity, in the manner prescribed in the thirty-eighth section of the act to which this is amendatory, and the same proceeding shall therein be had for the enforcement of the liability against the stockholders as are therein for that purpose and to that end prescribed.

§ 6. In no case, under this act, or the said thirty-eighth section of the act to which this is amendatory, where suit be instituted against the corporation, with the view of shall enforcing payment of stockholders, shall it be necessary to procure service of process upon the corporation in any case where it shall appear, by averment and proof, that the corporation has ceased to do business, and has no officers upon whom process can be served; and in such case, the corporation, as against the stockholders, shall be deemed to be in court for the purpose of enabling the creditor to prove his debt against the corporation and the stockholders, and of proceeding to judgment against the stockholders, in the manner and with the rights provided in said section.

§ 7. In any case instituted under this act the court shall have power to appoint a receiver to take charge of and convert the legal and equitable property of the corporation into money, and cause the same to be appropriated to the payment of its debts in the manner prescribed by the act to which this is amendatory.

§ 8. The thirty-sixth and thirty-seventh sections of the act approved February 15, 1851, are hereby restored and re-enacted; and any bank which has, in other respects, fulfilled the requisitions of such sections, shall be entitled to the benefits and privileges thereby secured, notwithstanding such bank may not have given the notices thereby required, if three years have elapsed from the date of going

Receiver.

Minors.

Civil process.

Judgment and execution.

into liquidation; and any such bank which has not fulfilled such term of three years from the date of going into liquidation, shall only be required to give such notice for the portion of said term of three years unexpired.

§ 9. This act to take effect and be in force from and after its passage.

APPROVED February 14, 1861.

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