

# SUPPLEMENT TO THE SMOKY HILL AND REPUBLICAN UNION.

Thursday, September 19, 1861.

## NOTICE!

### To the Electors of the State of Kansas.

It becomes my duty to lay before the voters of this State the following "Bill on Banking," for their approval or rejection, at the general Election in November, 1861, as according to the Constitution of Kansas, "Article XIII, Section 8," no Banking Law shall be in force until the same shall have been submitted to a vote of the electors of the State, at some general Election, and approved by a majority of all the votes cast at such Election.

J. W. ROBINSON,  
Secretary of State.

## AN ACT

To authorize the Business of Banking.

Be it enacted by the Legislature of the State of Kansas:

SECTION 1. That it is hereby made the duty of the Auditor of State, on application of any person, or association of persons, wishing to organize under this act, to 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. Such bank notes, in blank, so prepared as aforesaid, shall be of the denominations usually issued by banks, from one dollar to one hundred dollars, but such notes shall not be of any intermediate denomination between one and two, two and three, three and five, five and ten dollars, ten and twenty, twenty and fifty, or fifty and one hundred dollars.

SEC. 3. Such blank circulating notes shall be countersigned by such Auditor of State, and numbered and registered in proper books, to be kept for that purpose, in his office and under his direction, by the Auditor himself, or such person or persons as the Auditor shall appoint, so that each denomination of such circulating notes shall be of the same similitude and all bear the uniform signature of such Auditor of State and Register.

SEC. 4. Whenever any person or association of persons, formed for the purpose of banking under the provisions of this act, shall duly assign or transfer, in trust, to the Auditor of this State, any portion of the public stocks issued, or to be issued, by the United States, or the stocks of the State of Kansas, said stocks to be valued at a rate to be estimated and governed by the average rate at which such stocks are sold in the city of New York, at the time when such stocks may be left on deposit with the Auditor of State, such person or association of persons shall be entitled to receive from the Auditor an amount of such circulating notes of different denominations, registered and countersigned, equal to and not exceeding the amount of public stocks assigned and transferred as aforesaid; but such public stocks shall, in all cases, be, or be made to be, equal to a stock producing six per cent. per annum, and it shall not be lawful for the Auditor of State to take such stock above its par value, nor above its current market value in the city of New York, on the stock exchange, at the time of deposit by such person or association of persons. If at any time the stocks assigned and transferred to the Auditor of State for circulating notes, or any part thereof, shall depreciate in value in the New York market, the Auditor of State shall reduce the rate, at which the same shall be continued to be held as securities, and require such banking association or banker owning such stocks, to make up the deficiency with such additional stocks, as required by this act, to be transferred and assigned as aforesaid, or such banking association or banker may make good such deficiency by returning to the Auditor of State such amount of bank bills, previously issued to him or them, as shall be equal to the deficiency of securities created or caused by the depreciation of said stocks held as security as aforesaid; Provided, That, if, in the opinion of the Auditor and Governor, any stocks offered shall be deemed insecure, they shall not be received as such securities under the provisions of this act.

SEC. 5. Before any bank shall receive from the Auditor of State any circulating notes, as provided in section four of this act, the stockholders thereof shall give to the Auditor of State good and sufficient bonds, to be approved by him, to the amount of one-fourth of the notes that said bank shall receive, and the stockholders thereof shall file, with the Auditor, a certificate, to be attested by the oaths of the President and Cashier of such banking association, that ten per cent of the capital stock of such bank is paid in specie and on deposit, and shall remain in the vaults of said bank as an additional security to indemnify the bill holders against any loss that may be sustained, in case the other securities deposited with the Auditor of State shall be insufficient to redeem said bills.

SEC. 6. The bills and notes so to be countersigned and registered, the payment of which shall be secured by the transfer of public stocks, shall have engraved upon their face the words, "Secured by pledge of public stocks," and the place where the same were issued.

SEC. 7. The Auditor may give, to any person or association of persons, so transferring securities in pursuance of the provisions of this act, power of attorney to receive interest or dividends thereon, which said interest or dividends such person or association of persons may receive and apply to their own use; but such power may be revoked upon such person or association of persons failing to redeem the banking notes so issued, and the Auditor of State, upon application of the owners of such transferred securities in trust, may, in his discretion, change or transfer the same for other securities of the kind specified before in this act, or may transfer the said securities, or any part thereof, upon receiving, and cancelling an equal amount of such circulating notes delivered to him by such person or association of persons, in such manner that the circulating notes shall always be secured in full, as in this act provided.

SEC. 8. The notes and bills discounted or purchased, moneys loaned, and all other property, effects or dues, of every description, of all banks or banking associations, organized under the provisions of this act, shall be assessed and taxed in the city, ward, village or town where the same is located, for all State, county, town, school and corporation purposes, in the name of [such] bank or banking association, to the same extent and under the revenue laws, the same as the property of individuals.

SEC. 9. 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 act; but the aggregate of the capital stock of such bank or

SEC. 10. 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 to be established pursuant to this act, 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 of such bank is to be carried on, designating the particular city, town, village, and county; third, the amount of capital stock of such bank, and the number of shares into which the same shall be divided; fourth, the name and place of residence of the shareholder or shareholders in such bank, and the number of shares held by them respectively; fifth, the period at which such bank shall commence, 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, and by such name shall have power to contract and be contracted with, sued and be sued, and shall have all other powers, privileges and immunities incident to corporations, and applicable to the end of such establishments, subject to the provisions and restrictions of this act.

SEC. 11. A copy of the certificate required by the next preceding sections, 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 or persons for or against whom any such evidence may be necessary, whether on civil or criminal trial.

SEC. 12. Such person or association of persons shall have 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 or personal securities, and by exercising such incidental powers as may be necessary to carry on such business; may choose one of their number as president, and appoint a cashier and such other officers as their business may require, and to remove such president, cashier, officers and agents at pleasure, and to appoint others in their places; but no such association or banker shall commence the business of banking under this act, until such association or banker shall have deposited with the Auditor of State the securities required by this act.

SEC. 13. The shares in such bank shall be deemed personal property, and shall be transferable on the books of the bank in such manner as may be agreed upon in the articles organizing such bank, 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 shareholder or 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 way impaired, and any association constituting such bank shall not be dissolved by the death or insanity of any one of the shareholders therein.

SEC. 14. If the maker or makers of any such circulating note or notes, countersigned and registered as aforesaid, shall, at any time hereafter, on lawful demand, during the usual hours of business, at the place where such note or notes is or are made payable, fail or refuse to redeem such note or notes, in the lawful money of the United States, the holders of such note or notes 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 or notes shall not be liable for the expense of so protesting the same, unless, on such demand and refusal so to redeem the same, he or they shall refuse to waive protest and notice of protest thereon, and such waiver of protest shall, in all cases, be deemed 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 paying 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 note or notes as aforesaid, shall forthwith give notice, in writing, to the maker or makers of such note or notes, to pay the same; and, if they shall omit to do so for twenty days after such notice, the Auditor shall immediately thereupon, unless he shall be satisfied there is a good and legal defense against the payment of such note or notes, give notice that all the circulating notes of such person or association of persons 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, and in some newspaper printed at the seat of government of this State; and the Auditor of State shall be required to apply the said trust funds, belonging to the maker or makers of such protested note or notes, to the payment of all circulating notes, whether protested or not, put in circulation by the maker or makers of such protested note or notes, pursuant to the provisions of this act, and to adopt such measures for the payment of such notes as will, in his opinion, most effectually prevent loss to the holder of such notes; and, to this end, the Auditor of State may, after giving thirty days notice, by publication in a newspaper printed at the seat of government of this State, and in a daily newspaper printed in the city of New York, proceed to sell, at the Merchant's 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 act; but nothing in this act 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. 15. Such bank or banking association shall be liable to pay the holder of every bill or note put in circulation as money, the payment of which shall have been demanded and 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. 16. It shall not be lawful for the Auditor of State, or his deputy, to 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 act, deposited with him in trust by such association or banker, or to use or dispose of such securities in any manner other than provided for in this act; and any Auditor of State, or deputy, who shall violate the provisions of this section, shall, upon conviction, be deemed guilty of a misdemeanor, and be punished by

association of persons organized under the provisions of this act, 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. 18. Contracts made by any bank or banking associations established under the provisions of this act, and all notes or bills issued and put in circulation as money, shall be signed by the president and cashier thereof, and all suits, 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.

SEC. 19. It shall be lawful for such bank or banking association to purchase, hold and convey real estate, for the following purposes—First—Such as shall be necessary for its immediate accommodation in the convenient transaction of its business. Second, Such as shall be mortgaged to it in good faith by way of security for loans made by, or money due to, such bank. Third, Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings. Fourth, Such as it shall acquire by sale on execution or decree 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 corporations, and which real estate the president and cashier may sell assign, grant or convey, 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. 20. The president and cashier of every bank formed pursuant to the provisions of this act, 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 times 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 may be 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 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.

SEC. 21. In the event of the insolvency of any bank established under the provisions of this act, the billholders thereof shall be entitled to preference in payment over all other creditors of such bank.

SEC. 22. It shall not be lawful for any bank formed under the provisions of this act 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 of the same at any other place, and said bills or notes shall be made payable on demand and without interest.

SEC. 23. When the owner or owners of any bank desists of relinquishing the banking business, shall notify the State Auditor of such intention, then, and in such case, it shall be competent for said bank or bankers to redeem and deposit with the Auditor of State, from time to time, any amount of their circulating notes which may have been issued to said association, bank or bankers, in sums, however, not less than one thousand dollars at any one time, and to receive therefor and with draw an equal amount of securities by them deposited with the Auditor of State; but no bank shall continue to transact any business whatever, further than what may be required to close up after their capital stock, securities or circulation shall have been reduced to less than twenty-five thousand dollars, nor in any case after two years from the date of said notice of intention to relinquish and close up their banking business, as aforesaid; and whenever the retiring bank or bankers shall desire to withdraw all the securities heretofore lodged with the Auditor of State, they may do so, by producing and filing with the Auditor of State a certificate of deposit to his credit, in such bank as he shall approve of, of an equal amount with the circulating notes of such bank or bankers then remaining unredeemed, and the Auditor of State, on being satisfied of such deposits, and of the sufficiency thereof, shall give up all the remaining securities heretofore deposited by such bank or bankers for the redemption of the circulating notes issued.

SEC. 24. Such banking association or banker, after having complied with the provisions of the last preceding section, shall give notice, for two years, in some newspaper printed in the county where such bank shall have been located, and in a paper printed at the seat of government 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 bankers.

SEC. 25. Any banking association or banker wishing to withdraw any of the securities in their deposited with the Auditor of State, may do so by depositing an equal amount of the circulating notes which may 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 securities thus withdrawn by deposits of said circulating notes, shall not reduce the amount of such securities remaining in the hands of the Auditor of State, to less than twenty-five thousand dollars.

SEC. 26. The securities to be deposited with the Auditor of State, in trust, by any association or banker, shall be held by any 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 of State, as provided in this act; but the Auditor of State 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 section twenty-five of this act.

SEC. 27. All circulating notes of banks or banking associations, returned to the Auditor of State, shall be destroyed by him in the presence of the Governor and an authorized officer of the bank, after he shall have made a record of the same, which shall specify the number of each note, its date, and by whom it was countersigned, in the books to be kept by himself for registering circulating notes.

SEC. 28. It shall be the duty of the Auditor of State to receive mutilated circulating notes issued by him, and after making a record of them, in lieu thereof, circulating notes to the same amount.

SEC. 29. The bills or notes of any bank or banking association shall be at all times re-

tion remained 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 shall be made good, either by subscription of the shareholders, or out of the subsequent accruing profits of the association; and, if it shall appear 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. 31. 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 or 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 any other State of the United States, or the Congress of the United States, or of the British Possessions, shall, for each offense, upon conviction thereof, be adjudged guilty of misdemeanor, and shall be punished by a fine of not less than one hundred dollars, or by not less than three nor more than twelve months imprisonment, or both by fine and imprisonment.

SEC. 32. Such bank or banking association may demand, and receive, for loans on real and personal security, or for notes, bills or other evidences of debts discounted, such rates of interest as may be agreed upon by the parties, subject however, to general laws regulating and fixing the rate of interest—and it shall be lawful to receive the interest in advance, according to the ordinary usage of banking institutions—and in general do all things, and have all the privileges incident to banking associations or corporations.

SEC. 33. 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 act, make and transmit to the Auditor of State a report, which shall be made on oath of the president and cashier, and shall contain 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 banks, real estate, specie, cash items, stock and promissory notes, bills of solvent banks, loss, expense account, capital, circulation, amount due to depositors on demand, amount not included under either of the above heads. And it shall be the duty of the Auditor of State to collate and publish said report once, in some newspaper printed at the seat of government and in the county in which said bank or banks are located, and the expense thereof shall be defrayed by the banks; and, if any bank shall fail to furnish to the Auditor its quarterly report in time for such publication, or shall fail to pay the expenses incurred in the publication of its report, when they shall be demanded by him, it shall forfeit and pay the Auditor of State 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 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 of State shall also transmit, annually, to the Legislature, at the commencement of the session, a condensed summary of all the items reported to him by all the banks, which summary, verified by his oath, shall contain a true and correct statement of the condition of all the banks in the State at the time of making of their last report.

SEC. 34. Every bank and banking association, formed under the provisions of this act, 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, and in some newspaper printed at the seat of government in 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 interests declared and payable upon any of the stocks, bonds or other evidences of indebtedness of said bank, which, at the date of such statement, shall have remained unclaimed by any person or persons authorized to receive the same, for two years then next preceding.

SEC. 35. 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 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. 36. All plates, dies, and such like materials of and peculiar to any individual bank or banking association, which shall have closed business, either by its own voluntary act, or by operation of law, under the direction of the Auditor of State, in presence of the Governor or 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. 37. It shall be the duty of the Legislature, annually, to elect a joint committee, whose duty it shall be to examine the securities deposited in the Auditor of State's office, by banking associations and individual banks, together with 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. 38. Every officer, agent or clerk of any banking association or banker authorized by this act, who shall willfully and knowingly subscribe or make any false statements of facts, entries in the books of such person or association, or shall knowingly subscribe or exhibit false papers, with the intent to deceive any person authorized to examine as to the condition of such bank or association, or shall willfully or knowingly subscribe and make false reports, shall be deemed guilty of [a] misdemeanor, and shall be subjected to imprisonment at hard labor, in the State's prison, for such term, not less than one year nor more than ten years, as the court trying him shall designate, and, likewise, any commissioner, examiner or other officer, willfully and knowingly subscribing or making any false report, shall be deemed guilty of [a] misdemeanor, and be subjected to like penalties.

SEC. 39. The Auditor of State shall, before entering upon the duties prescribed by this act, give to the State of Kansas 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 act, 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. 40. Any banker or banking association that shall organize under this act, shall be required to pay the Auditor of State for the service performed by him or under his direction, in behalf of such banker or banking association, [according to the provisions thereof], one-half of one per cent. on the amount of circulating notes countersigned and registered as hereinbefore provided, and may require the same to be paid at the time of the delivery of such notes.

SEC. 41. In case the securities deposited with

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 certificates the Auditor of State may deduct the same from the proceeds of such sale.

SEC. 42. Any person or persons violating any of the provisions of this act, not hereinbefore specifically provided for, shall, upon conviction thereof, pay a fine of 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. 43. This act to be published in one newspaper in each county in this State, where practicable, and in one newspaper published at the Capital, for six weeks previous to the next general election, and to be submitted to a vote of the electors of this State at the general election; to be in force from and after its approval by the majority of the votes cast at such election. The ballots used at said election shall be written or printed, as follows: "For Banking Law," or "Against Banking Law," as the case may be, and the returns of such election shall be made in accordance with the election law of this State.

APPROVED, June 4th, 1861.  
SECRETARY OF STATE'S OFFICE,  
Topeka, Sept. 16th, 1861.  
I hereby certify that the above is a true copy of the original Enrolled Bill, as filed in my office.

JOHN W. ROBINSON,  
Secretary of State.

## THE PRESS.

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