

toll gatherer and the person demanding the same. One of which duplicates the toll gatherer shall deliver to such person, retaining the other in his possession; and such receipts shall be conclusive evidence in any court of justice of the amount of tolls paid, and the number of miles represented to have been or intended to be traveled by such person; and any toll gatherer refusing to give such receipt or any party refusing to sign the same, after having demanded one, shall forfeit the sum of ten dollars.

How penalties recovered.

SEC. 5. The penalties incurred under this act may be sued for and recovered by action of debt, in the name and for the use of the town in which said gate is situated, or in case of a penalty for a failure to erect or maintain mile posts in the name and for the use of any town through or into which said road runs, with costs of suit, before any justice of the peace; and in every such action, the complainant or aggrieved party may be a witness in behalf of such town, but any such receipt as mentioned in section number four, where the complaint is for the collection of illegal toll, shall be conclusive evidence as stated in such section. The name of the complainant shall be entered on the docket of the justice, and in case the determination shall be in favor of the defendant, judgment shall be entered against the complainant for costs.

Execution may provide for imprisonment.

SEC. 6. Any execution to be issued on any judgment for any such penalty may authorize the imprisonment of the defendant so adjudged to have incurred such penalty in the common jail of the county for ten days.

SEC. 7. This act shall take effect from and after its publication.

J. McM. SHAFTER,

Speaker of the Assembly.

E. B. DEAN, JR.

President pro tem. of the Senate.

Approved, April 19, 1852.

LEONARD J. FARWELL.

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Chap 479

An Act to authorize the business of Banking.

The people of the State of Wisconsin represented in Senate and Assembly do enact as follows:

Bank comptroller.

SECTION 1. For the purpose of carrying into effect the provisions of this act, the governor of this state is hereby authorized and required, so soon as this act shall be in force, to appoint, by and with the consent of the senate, a

bank comptroller, who shall hold his office until the first Monday in January, A. D. 1854, and until his successor is elected and qualified. At the general election to be held in this state on the Tuesday next succeeding the first Monday in November, A. D. 1853, and every two years thereafter there shall be elected by the people, a bank comptroller, whose term of office shall commence on the first Monday in January, A. D. 1854, and continue two years, and until his successor is elected and qualified; the canvass and return of the election of said bank comptroller shall be made in the same manner as the election of other state officers are canvassed and returned. The compensation of bank comptroller shall be, including office rent, clerk hire, stationery, fuel, and all other contingent expenses, two thousand dollars per annum, to be paid out of the state treasury in the same manner as other state officers are paid. The bank comptroller shall, before he enters upon the duties of his office, take and subscribe the oath required by the constitution, and give a bond to the state of Wisconsin in the sum of fifty thousand dollars, with not less than ten sureties, who shall be resident freeholders of this state; said bond to be conditioned, approved, and preserved in the executive office, in the same manner as is provided for the state treasurer's bond, in section twenty-seven, chapter nine, of the revised statutes. The bank comptroller shall keep his office at the seat of government of this state, and carry into effect the provisions of this act in the manner hereinafter specified: *Provided*, That the salary of the comptroller shall in no case exceed the amount paid into the state treasury under the provisions of this act.

Compensation.

Comptroller to give bond.

Proviso.

SEC. 2. The bank comptroller shall appoint a deputy, who in the absence of the comptroller from his office, or in case of a vacancy in said office, or in case of any disability of the comptroller to perform the duties of his office, may perform all the duties of the office of bank comptroller, until such disability be removed, or vacancy be filled by appointment as provided in the succeeding section, for whose acts said comptroller shall be liable on his official bond: *Provided*, That the said deputy be paid for his services out of the salary allowed the comptroller by the preceding section.

Deputy comptroller.

Proviso.

SEC. 3. In case the office of bank comptroller shall become vacant, or in case the comptroller from any cause shall be incapable of discharging the duties of said office, the governor of this state shall appoint a suitable person to perform the duties of bank comptroller, and the person

How vacancy filled.

so appointed shall be invested with all the powers and shall perform all the duties of such comptroller until such vacancy be filled or such disability be removed, and he shall give bonds in the same manner as is required of the comptroller in the first section of this act.

Comptroller to provide blank notes.

SEC. 4. The bank comptroller is hereby authorized and required 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 different denominations, not less than one dollar, at the expense, to be paid in advance, of any person or association of persons applying for the same, as he may from time to time deem necessary to carry into effect the provisions of this act. Such blank circulating notes shall be countersigned, numbered, and registered in proper books to be provided and kept for that purpose in his office, so that each denomination of such circulating notes shall bear the uniform signature of such bank comptroller or his deputy, and the plates, dies, and materials to be procured by the comptroller for the printing and making of the circulating notes provided for hereby, shall remain in his custody or under his direction.

When blank notes to be given out.

SEC. 5. Whenever any person or association of persons formed for the purpose of banking under the provisions of this act, shall duly assign and transfer in trust to the treasurer of this state, any portion of the public stocks issued or to be issued by the United States, or any state stocks on which full interest is annually paid, said stocks to be valued at a rate to be estimated and governed by the average rate at which said stocks have been sold in the city of New York, within the next six months preceding the time when such stocks may be left on deposit with the comptroller, such person or association of persons shall be entitled to receive from the bank comptroller 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 bank comptroller to take such stocks at a rate above its par value, nor above its current market value in the city of New York, at the time of deposit by such person or association of persons: *Provided*, That if in the opinion of the bank comptroller and governor any stocks offered shall be deemed insecure, they shall not be received as such securities under the provisions of this act.

Proviso.

SEC. 6. Any person or association of persons formed

for the purpose of banking under the provisions of this act, may at his or their option assign and transfer in trust to the state treasurer of this state, bonds or obligations bearing a rate of interest not less than seven per cent. per annum, payable semi-annually, issued by any rail road company in this state incorporated by any act of the legislature of this state, or of the territory of Wisconsin, duly organized under such act of incorporation, the payment of which bonds or obligations shall be secured in the manner hereinafter provided by a mortgage or deed of trust of the whole or a portion of a rail road constructed by such rail road company in this state; which bonds or obligations shall be received by the said treasurer in lieu of the public stocks issued or to be issued by the United States, or by any state as hereinbefore provided in this act; and upon making such assignment and transfer, such person or association of persons shall be entitled to all the privileges, immunities, and benefits which by the provisions of this act he or they would be entitled to if the whole amount of securities so assigned and transferred were public stocks of the United States or of any state: *Provided*, That such bonds or obligations shall not be received or held as securities for more than one-half of the amount of bills or notes issued to such person or association: *And provided further*, That no rail road corporation shall ever engage in the business of banking under the provisions of this act.

Rail road bond securities.

Proviso.

SEC. 7. The mortgage or deed of trust executed to secure the payment of such bonds or obligations, shall be executed to a trustee or trustees, shall contain the usual and appropriate provisions for the security of the holders of such bonds or obligations, shall be the first lien on a portion of continuous rail road, of not less than forty miles, or on the whole of a rail road, of not less length than twenty miles in extent, and shall convey the same, together with its equipments, depots, fixtures, machinery, and the name and franchises appertaining thereto.

How mortgage executed.

SEC. 8. No such bonds or obligations shall be received until the governor, bank comptroller, and attorney general, or two of them, shall file with the treasurer of the state a certificate by them signed from actual view and inspection, that such requisite portion of road has been constructed in a substantial manner, with a solid road bed, and with a rail of T or II or other approved pattern and weight, of in no case less than fifty pounds to the yard, similar to other roads of the first class, and has been fully equipped and in actual operation, and has earned for the year next preceding a net revenue greater than the interest on the bonds

When bonds to be received.

or obligations secured thereon by such mortgage or deed of trust, nor until the attorney general shall file in like manner his certificate from actual examination, that such mortgage or deed of trust has been duly executed in the manner and with the provisions required by this act, and is the first lien on such portion of road, its equipments, depots, fixtures, machinery, income, and franchises; nor until the directors of such rail road company shall file in like manner a statement, under the oath of its president and secretary, setting forth the cost of such portion of road and the net revenues thereof for the year next preceding.

Rate at which
bonds may be re-
ceived.

SEC. 9. Such bonds or obligations shall not be received at a rate higher than eighty cents on every dollar of the current and actual value thereof, nor at a rate, estimating the whole number of continuous miles in such portion of road and the amount of bonds or obligations secured thereby, exceeding the one-half of the average cost and value of such road, nor at a rate, to be ascertained by such estimate, exceeding eight thousand dollars per mile for every mile thereof.

When bonds to
be rejected

SEC. 10. The bank comptroller, in conjunction with the governor, shall reject such bonds or obligations, the security of which shall be found upon examination to be doubtful or liable to be seriously impaired, and in case the current or actual value of said bonds or obligations shall have depreciated, after they shall have been received, the bank comptroller shall reduce the rate at which the same shall be continued to be held as securities, and require other bonds or obligations, or public stocks of the United States, or of any state, to be deposited to make good the deficit, in like manner as is provided for in this act, in case of the depreciation of the value of such bonds or public stocks.

How mortgage
recorded.

SEC. 11. Every such mortgage or deed of trust by which such bonds or obligations shall be secured, shall be recorded in the office of the secretary of state, in a proper book kept for that purpose, whose certificate of such registering endorsed on such mortgage shall be evidence thereof; and the said mortgage or deed of trust so recorded shall have the same effect as if recorded in the several counties through which such road may be built.

List of circula-
ting notes.

SEC. 12. A descriptive list of the circulating notes so registered and countersigned by the bank comptroller or his deputy as provided in section four. of this act, shall be delivered to the state treasurer, who shall copy the same in the book hereinafter required to be kept by him for record-

ing descriptive lists of securities deposited with him for safe keeping.

SEC. 13. Three descriptive lists of the securities transferred to the state treasurer in trust as aforesaid, shall be made and signed by the bank comptroller and persons making the transfer; one in a well bound book to be kept by the comptroller for that purpose; one in a like book to be kept by the treasurer, and one in a book to be kept by the association; and said securities shall then be delivered to the state treasurer for safe keeping, who shall receipt to comptroller for the same, and who shall be responsible for any loss or destruction thereof growing out of or resulting from negligence, or the want of reasonable precaution or care. The whole or any part of said securities may be re-delivered to the comptroller for the purpose of being sold under the provisions of this act, or being used or disposed of under any order or decree of court, or of being returned to the owner in conformity with the provisions of this act, the comptroller in either case giving a receipt upon the book kept by the treasurer aforesaid, specifying therein the purpose for which such re-delivery was made, which receipt shall discharge the treasurer from all further responsibility for the securities so re-delivered to the comptroller.

Lists of securities.

SEC. 14. The treasurer may give to any person or association of persons so transferring securities in pursuance of the provisions of this act, powers of attorney, to be countersigned by the bank comptroller, and recorded by him in a book to be procured and kept for that purpose, to receive interest or dividends thereon, which such association 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 circulating notes so issued, or when in the opinion of the bank comptroller the principal of such securities shall become insufficient security; and the bank comptroller upon application of the owners of such transferred securities in trust, may in his discretion, with the approval of the treasurer in writing, change or transfer the same for other securities of the kind before specified 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 by him to such person or association of persons, in such manner that the circulating notes shall always be secured in full by securities as in this act provided.

How interest or dividends on stock drawn.

SEC. 15. The bills or notes so to be countersigned and registered, and the payment of which shall be so secured

How bills to be stamped.

by the transfer of public stocks, shall be stamped upon their face, "secured by the pledge of public stocks," and the bills or notes, the payment of which shall be secured by the transfer of public stocks and rail road bonds, shall be stamped upon their face, "secured by the pledge of public stock and rail road bonds," and the amount of capital stock of the bank shall be stamped on all such bills or notes.

Tax on banking
association.

SEC. 16. Every bank and banking association organized under the provisions of this act, shall pay to the state treasurer, on the first day of January and July of each year, a semi-annual tax of three-fourths of one per centum on the amount of capital stock of such bank or banking association; the first payment of such tax to be computed at the rate of one and a half per centum per annum, from the time of filing the certificate required in section nineteen, to the first day of January or July then next succeeding. If any bank or banking association as aforesaid, shall neglect or refuse to pay said tax for ten days after it shall become due, notice of non-payment shall be sent to such delinquent by the state treasurer; and if the payment be not made within twenty days thereafter, such delinquent bank or banking association, shall in addition to the tax aforesaid, forfeit and pay to the said treasurer for the use of the state one per centum on the amount of its capital stock. The above semi-annual tax and forfeiture shall always constitute a lien on the interest of the securities deposited with the treasurer as provided in section five, and in case of non-payment of such tax and forfeiture, or of either of them, the treasurer is authorized and required to revoke the power of attorney granted such delinquent, as provided in section fourteen, collect the interest of such securities and apply the same to the payment of said tax and forfeitures, or of either of them, and hold the balance if any, subject to the order of such delinquent. If the interest of said securities shall be insufficient to pay said tax and forfeitures, the treasurer, after deducting the amount of said interest, may collect the balance by action of debt in any court of competent jurisdiction, in the county where such delinquent is located, in the name and on the behalf of the state. Said capital stock shall be exempt from all other taxes except on that portion of said capital stock which shall consist of and include the real property of such bank or banking association; and the real property of all banks and banking associations shall be assessed and taxed in the city, ward, village, or town, where the same is located, for all state, county, town and corporation purposes, in the name of such

bank or banking association: *Provided*, That the owner ^{Proviso.} or holder of shares of stock in any bank or banking association shall not be taxed as an individual for such shares of stock.

SEC. 17. Before any person or banking association formed under this act shall receive from the comptroller any circulating notes as provided in sections five and six of this act, the directors or stockholders shall give to the comptroller good and sufficient bonds, to be approved by ^{Directors to give bond.} him, to the amount of one-fourth of the notes that the said association shall propose to receive as an additional security to indemnify the bill holders against any loss that may be sustained in case the securities deposited with the comptroller shall be insufficient to redeem said bills, and such person or association of persons are hereby authorized, after having executed and signed such circulating notes in the manner required by this act, to make them obligatory promissory notes, payable on demand at the place of business within this state, to loan and circulate the same as money, according to the ordinary course of banking houses.

SEC. 18. Any number of persons may associate to establish offices of discount, deposits, and circulation, and become incorporated upon the terms and conditions, and ^{Association for discount.} subject to the liabilities prescribed in this act; but the aggregate of the capital stock of any such association shall not be less than twenty-five thousand dollars, nor more than five hundred thousand dollars.

SEC. 19. Such persons, under their hands and seals shall make a certificate which shall specify, ^{What certificate to specify.}

1st. The name assumed to distinguish such association, and to be used in all its dealings, which name shall not be that of any other banking association in this state.

2d. The place where the business of discount and deposit of such association is to be carried on, designating the particular city, town, or village.

3d. The amount of capital stock of such association, and the number of shares into which the same shall be divided.

4th. The names and places of residence of the shareholders, and the number of shares held by each of them respectively.

5th. The period at which such association shall commence and terminate; which certificate shall be acknowledged and recorded in the office of the register of deeds of the county where any office of such association shall be established, and a copy thereof filed in the office of the

state treasurer, and of the comptroller; and upon the recording of which certificate, the person or association of persons aforesaid shall become a body politic and corporate by the name assumed as aforesaid, for and during the time fixed in the certificate, and by such name shall have power to contract and be contracted with, and shall have all other powers, privileges, and immunities incident to corporations, as provided in chapter 54, title 13, of the revised statutes of this state.

Copy of certificate to be evidence.

SEC. 20. A copy of the certificate required by the preceding section, duly certified by the register of deeds of the county, or comptroller, or either of those officers, may be used as evidence in all courts and places, for or against any such association, or any other person for or against whom any such evidence may be necessary on any civil or criminal trial.

Powers of association.

SEC. 21. Such association 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 and 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 and agents as their business may require; but no association or banker shall commence the business of banking under this act, until such association or banker shall have deposited with the treasurer the securities required by law, to the amount of twenty-five thousand dollars, exclusive of the bonds of directors or stockholders.

Share deemed personal property.

SEC. 22. The shares of such association shall be deemed personal property, and shall be transferable on the books of the association in such manner as may be agreed on in the articles of association; and every person becoming a shareholder by such transfer, shall, in proportion to his shares, succeed to all the rights, and be subject to all the liabilities of prior shareholders. No change shall be made in the articles of association, by which the rights, remedies, or securities of its existing creditors shall be weakened or impaired; such association shall not be dissolved by the death or insanity of any one of the shareholders therein.

Proceedings in case notes not redeemed.

SEC. 23. In case the maker or makers of any circulating note or notes, countersigned and registered as aforesaid, shall at any time hereafter on lawful demand during the usual hours of business, between the hours of ten and

three o'clock, at the place where such note or notes is or are payable, fail or refuse to redeem such note or notes in the lawful money of the United States, the holder or holders of such note or notes, making such demand, may cause the same to be protested in one package, for non-payment, by a notary public under his official seal, unless the president, cashier, or teller shall offer to waive demand, and notice of the protest, and shall, in pursuance of such offer, make, sign, and deliver to the party making such demand, an admission in writing, stating the time of the demand, the amount demanded, and the fact of the non-payment thereof; and the bank comptroller on receiving and filing in his office, such admission or protest, together with such note or notes, 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 five days after such notice, the bank comptroller shall immediately thereupon (unless he shall be satisfied that there is a good and legal defense against the payment of such note or notes,) give notice that all the circulating notes issued by such person or association of persons 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 association is established, or in case there is no newspaper printed in such county, such notice shall be published in some newspaper printed at the seat of government of this state, and the comptroller shall be required to apply the said trust funds belonging to the maker or makers of such protested note or notes to the payment *pro rata*, 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 holders thereof.

SEC. 24. In case such person or association of persons shall fail or refuse to pay such bills or notes on demand in the manner specified in the preceding section of this act, the comptroller, after the expiration of the five days' notice mentioned in the preceding section, shall, after giving thirty days' notice by publication in some newspaper printed at the seat of government of this state, and in one daily paper published 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 sale shall pay and cancel all the bills or notes which have been issued and put in circulation by such as-

When securities
to be sold.

sociation under the provisions of this act, to be applied *pro rata*, to the payment of all such circulating notes; but nothing in this act contained shall be considered as implying any pledge on the part of the state for the payment of said bills or notes, beyond the proper application of the securities pledged to the treasurer for their redemption.

SEC. 25. In case the current market value of any portion of the securities transferred by any banking association to the state treasurer in trust as provided in this act, shall at any time for the period of ninety days be less than the value at which they were deposited, the comptroller shall notify such bank of the depreciation in value of such securities, and such banks within thirty days after receiving such notice, shall cause securities of the kinds before specified, or an equal amount of their circulating notes, to be transferred to the treasurer of state, in trust, to an amount equal to the difference between the current market value at the time of notice, and the value at which the same were deposited; and if said banking association shall neglect or refuse to deposit securities or circulating notes to the amount of such difference, within the thirty days after the date of said notice, the said association shall be deemed to have forfeited their rights, powers, privileges, and immunities as banking associations under the provisions of this act, and it shall be the duty of the comptroller to make application to the circuit court of the county in which said association may be located, to have receivers appointed as provided by section nine, chapter fifty-four, title thirteen, revised statutes, who shall have the powers and perform the duties that are required by that section. But this section shall not be so construed as to require the surrender to such receiver of any securities deposited with the treasurer or comptroller, pursuant to this act, and the comptroller shall sell such securities for the payment of the bills or notes issued by the bank, as he is required to do in other cases.

SEC. 26. It shall not be lawful for the comptroller or his deputy to countersign bills or notes for any association to an amount in the aggregate exceeding the securities at their value, as before provided in this act, deposited with the treasurer in trust, by such association; and any comptroller or deputy who shall violate the provisions of this section, shall upon conviction, be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than five thousand dollars, or be imprisoned not less than five

Proceedings in case of depreciation of securities

Limit to amount of notes.

years in the state prison, or by both such fine and imprisonment.

SEC. 27. It shall be lawful for any association of persons organized under the provisions of this act, by their articles of association to provide for an increase of their capital, and of the number of their association, from time to time as they may think proper; the aggregate capital not to exceed five hundred thousand dollars, as before provided.

May increase capital.

SEC. 28. Contracts made by any such association and all notes and bills by them issued and put in circulation as money, shall be signed by the president or vice president and cashier thereof.

How contracts &c. signed.

SEC. 29. It shall be lawful for such association to purchase, hold, and convey real estate for the following purposes:

For what purposes may hold estate.

1st. Such as shall be necessary for its immediate accommodation in the convenient transaction of its business;

2d. Such as shall be mortgaged to it in good faith by way of security for loans made by, or money due to such association;

3d. Such as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealing; and

4th. Such as it shall acquire by sale on execution or decree of any court in its favor. The said association 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 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. 30. Such 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 protested, five per cent. damages for the non-payment thereof.

Damages for non payment.

SEC. 31. The president and cashier of every association 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 association, and shall file a copy of such list in the office of the register of deeds of the county where any office of such association may be located, and also in the office of the bank comptroller, on the first Monday in January and July in each year.

List of shareholders.

SEC. 32. It shall not be lawful for any association

Where notes to be paid.

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 at the office where the business of the association is carried on and conducted, and said bills or notes shall be made payable on demand, and without interest.

Proceedings when securities insufficient.

SEC. 33. Whenever the securities deposited for the redemption of circulating notes, shall, in the opinion of the comptroller, become insufficient for that purpose, he 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 comptroller may deem most conducive to the interest of such association, and to be withdrawn and paid over whenever, in the opinion of the comptroller, the securities of such association shall be sufficient to warrant it.

Fees for protest.

SEC. 34. All fees for protesting the circulating notes issued by any banking association, shall be paid by the person procuring the services to be performed, for which said association shall be liable; but no part of the securities deposited by such association shall be applied to the payment of such fee.

How business relinquished.

SEC. 35. When the officers of any banking association, desirous of relinquishing the banking business, shall have redeemed at least ninety per cent. of their circulating notes, and shall have returned, cancelled, the said notes to the comptroller, and shall produce to the comptroller a certificate of deposit to his credit in such bank as he shall approve, to an equal amount with the circulating notes of such banking association unredeemed, it shall be lawful for him to receive the same, and to give up all the securities theretofore deposited by such banking association for the remption of circulating notes issued.

Notice of relinquishment.

SEC. 36. Such banking association, after having complied with the provisions of the last preceding section, shall give notice for two years, in some newspaper in the county where such bank shall have been located, that all the circulating notes issued by such banking association must be presented at the comptroller'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; and on receiving satisfactory proof of the giving of such notice for the time aforesaid, the comptroller shall surrender to the order of such banking association, any securities which he may hold for the

payment of any unredeemed notes of the said banking association.

SEC. 37. Any banking association wishing to withdraw any of the securities by them deposited with the comptroller, may do so by depositing in lieu thereof, an equal amount of specie, or of the circulating notes which have been issued to said association by the comptroller, in sums of not less than one thousand dollars.

How securities
withdrawn.

SEC. 38. The securities to be deposited with the treasurer in trust by any association, shall be held by him exclusively for the redemption of the bills or notes of such association put in circulation as money, until the same are paid and returned to the comptroller as provided in this act; but the treasurer may assign said securities to said association, transferring the same upon receiving therefor equivalent securities, or upon being notified by the comptroller that such bank has deposited with him an equivalent amount in specie or circulating notes issued by such bank as provided in section thirty-seven of this act.

For what securi-
ties held,

SEC. 39. All the circulating notes of banks and banking associations returned to the comptroller, shall be destroyed by him after he shall have made a record of the same; which record shall specify the number of each bill, its date, and by whom it was countersigned, and shall be made in the books to be kept by him for registering circulating notes, as provided in section four of this act; and said comptroller shall also furnish the state treasurer with a copy of the record required by this section, who shall record said copy in the book in which he is required to copy descriptive securities and circulating notes, by sections twelve and thirteen of this act.

When notes to
be destroyed.

SEC. 40. If any portion of the original capital of any banking association shall be withdrawn for any purpose whatever, whilst any debts of the association shall remain unsatisfied, no dividends or profits in the shares of the capital stock of the association shall thereafter be made until the deficit of capital shall have been 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 circuit court of the county in which said association may be located, on application of any person in interest, to make the necessary orders and decrees for closing the affairs of the association, and distribute its property and effects among its creditors and shareholders.

When dividend
not to be made!

SEC. 41. Every bank and banking association shall, on

for them, their agents, officers, engineers, contractors, and servants, to enter upon, take possession of, and use such lands for the purposes of said road, not exceeding four rods in width along the line of such road, and to take from any lands adjoining thereto such earth, gravel, stone, or other material as may be required for the construction of said road, subject, however, to the payment of such compensation as the company may have agreed to pay therefor or as shall be ascertained in the manner hereinafter directed and provided.

How damages
settled.

SEC. 10. When the said corporation cannot agree with the owner or owners of any lands or earth, gravel, stone, or other material required for the construction of said road, for the purchase thereof, or the compensation to be paid therefor, or when by reason of the absence or legal incapacity of the owner or owners no such agreement or purchase can be made, then and in any such case it shall be lawful for any justice of the peace in the county in which the property may lie, to issue his warrant to the sheriff or any constable of said county not directly interested, requiring him to summon a jury of nine freeholders of said county not interested in said property, to meet in some convenient place at or near the property to be valued, on a day in said warrant named, not less than five nor more than ten days from the date of said warrant, and if at the time and place named any of the persons so summoned do not attend, then said sheriff or constable shall immediately summon as many as may be necessary with the persons in attendance as jurors to furnish a pannel of nine jurors, and from them the said company and the owner or owners of the property to be valued, their agent or attorney, or either of them, and if they are not present in person or by attorney, the sheriff or constable shall for him, her, or them strike off each two of said jurors, and the remaining five shall act as a jury of inquest of damages, and before they act as such the said justice of the peace shall administer to each of them an oath or affirmation that he will faithfully and impartially estimate the compensation which shall be paid to such owner or owners for such land or material required for the construction of said road according to the best of his skill and judgment; whereupon the said jurors shall forthwith or at such time not exceeding forty days therefrom, as they may designate, when such adjournment may be necessary to admit of the required notice, proceed to view the said land or material so required, and to hear the evidence of the respective parties, which the said jurors shall reduce to writing, which shall

SEC. 42. It shall be the duty of the comptroller to receive mutilated circulating notes issued by him, and after making a record of them, their denomination, and amount, to deliver in lieu thereof other circulating notes to the same amount.

To receive mutilated notes.

SEC. 43. Such banks or banking associations may demand and receive for loans on real and personal securities, or for notes, bills, or other evidences of debt discounted, a rate of interest not exceeding ten per cent. per annum, until the first day of January, A. D. 1860, and not exceeding seven per cent. per annum thereafter. It shall be lawful to receive the interest in advance, according to the ordinary usage of banking institutions, and to charge for collecting foreign or inland bills, or other evidences of debt; the usual current rate of exchange, and in the computation of time, thirty days shall be a month and twelve months a year.

May demand interest on loans

SEC. 44. All bills and notes of such banking association shall at all times be received by said association on all judgments, executions, or demands, payable to or the property of such banking association.

Notes to be received by banking associations

SEC. 45. That each and all the provisions of this act shall apply to and control in all respects, any banker who shall conduct business under the provisions of this law, whether the word banker is or is not used in any such provision.

To whom act to apply.

SEC. 46. The officers or agents of any banking association, 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 without the authority of this or any other of the United States, of the congress of the United States, or of Canada, shall, upon conviction, be adjudged guilty of a misdemeanor, and shall be punished by fine not less than one hundred dollars for every piece of paper so put in circulation, or imprisoned not less than six months, or by both fine and imprisonment.

Penalty for putting in circulation unauthorized notes.

SEC. 47. The stockholders in every corporation or association organized under the provisions of this act, shall be individually responsible to the amount of their respective share or shares of stock, for all its indebtedness and liabilities of every kind.

Individual liability.

SEC. 48. This act may be amended by any future legislature, but no amendment thereto shall take effect or be in force until it shall have been submitted to a vote of the electors of the state, in a similar manner as is provided for in this act, and been approved by a majority of all the votes cast on the subject.

How act amended.

Act submitted to people.

SEC. 49. At the general election to be held on the Tuesday next succeeding the first Monday in November, in the year A. D. 1852; at the usual places of holding elections in this state, for the election of all officers required by law then to be elected, the question whether this act shall go into effect, or in any manner be in force, shall be submitted to the people, and if the same shall be approved by a majority of all the votes cast on that subject, it shall go into effect and be in force from and after the date of said election, otherwise it shall not go into effect or in any manner be in force.

Form of ballot.

SEC. 50. The votes cast on the subject specified in the last preceding section, shall be by separate ballot, and shall have written or printed, or partly written and partly printed on each of them, the words "For the bank law," or "Against the bank law," which words shall indicate the vote of the elector for or against the approval of this act; and the ballots so cast shall be canvassed and returned in the same manner as the votes cast for state officers are required by law to be canvassed, and the secretary of state shall immediately on the completion of said canvass, publish a statement of the result thereof, in some newspaper printed at the seat of government, and shall communicate the same to the next legislature, at the commencement of its session; and he shall also deliver to the state treasurer a certified copy of this act, if the same shall have been approved, and a statement of the result of the canvass of votes upon this subject, immediately after the completion of said canvass.

J. McM. SHAFTER,
Speaker of the Assembly.

E. B. DEAN, JR.
President pro tem. of the Senate.

Approved, April 19, 1852.

LEONARD J. FARWELL.

[*Published May 5, 1852.*]

Chap 480

An Act to provide for laying out a State Road therein described.

The people of the State of Wisconsin represented in Senate and Assembly, do enact as follows:

Commissioners.

SECTION 1. That Thomas Bragg, Thomas Fenton, and Asa Richardson, are hereby appointed commissioners to lay out and establish a state road from the point on the state line in Green county, where a state road in contemplation from Freeport, in the state of Illinois may intersect said