

## CHAPTER 114.

## FREE BANKS.

AN ACT authorizing General Banking in the State of Iowa.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* That the Auditor of public accounts 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 similitude of Bank notes in blank of different denominations not less than one dollar, 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 the office of the Auditor and under his direction by such register or registers as the said Auditor shall appoint for that purpose so that each such circulating notes shall bear the signature of such Register, or one of such Registers; of the notes furnished to any corporation organized under the provisions of this act, not more than ten per cent. of the amount shall be in notes of two dollars each, and not more than twenty-five per cent shall be in notes of all denominations under five dollars, and not more than fifty per cent. in notes of all denominations under ten dollars.

Auditor procure notes engraved.

Notes countersigned and registered.

Proportion of small notes.

SEC. 2. Nothing herein contained shall be so construed as to prevent any corporation from procuring their own plate, dies and other materials for engraving and printing blank notes and furnishing them to the Auditor and leaving them ever after in his custody and control, to be used and disposed of as though such Auditor had procured them under the preceding section.

Bank may procure plates to be left with Auditor.

SEC. 3. Whenever any corporation formed for the purpose of Banking under the provisions of this act shall lawfully transfer to and deposit with the Auditor any portion of the public stock issued, or to be issued by the United States or any State stocks on which full interest is annually paid, or the stocks of this State, said

Stocks deposited

Value in New York. stocks to be rated at ten per cent, below their average value in the city of New York, for thirty days next preceding the time when such stocks may be left on deposit with the Auditor, and in no case shall the Auditor issue bills for banking purposes on bonds of this or any other State on which not less than six per cent is regularly paid, such corporation shall be entitled to receive from the Auditor an amount of such circulating notes of different denominations registered and countersigned as aforesaid, equal to the amount of stock actually deposited, rating said stock at ten per cent. less than its average value as aforesaid.

Circulating notes issued. **SEC. 4.** A descriptive list of the circulating notes so registered and signed, shall be delivered to the Treasurer, who shall copy the same in the book hereinafter required, to be kept by him, for recording descriptive lists of securities deposited with him for safe keeping.

Treasurer keeps records of notes **SEC. 5.** Such corporation is hereby authorized, after having executed and signed the circulating notes registered and countersigned as aforesaid, in the manner prescribed by this act, made payable on demand at the Banking House of said corporation within this State, to loan and circulate the same according to the ordinary course of Banking business, and no such corporation shall at any time, issue or have in circulation any note, draft, bill of exchange, acceptance, certificate of deposit or other evidence of debt, which from its character or appearance, shall be calculated or intended to circulate as money, other than such notes of circulation as are in this section provided for.

Notes put in circulation. **SEC. 6.** Three descriptive lists of the securities transferred to the Auditor as aforesaid, shall be made and signed by the Auditor and persons making the transfer; one in a well bound book to be kept by the Auditor for that purpose, and one in a like book to be kept by the Treasurer, and one in a book to be kept by the Corporation, which book shall at all times be open to inspection, and said securities shall then be delivered to the Treasurer for safe keeping, who shall receipt to the Auditor for the same, and who shall be responsible for any

Other circulation prohibited.

Lists of securities kept.

Stocks deposited with Treasurer.

loss or destruction thereof growing out of, or resulting from negligence or the want of reasonable precaution and care. The whole or any part of said securities may be re-delivered to the Auditor 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 Auditor 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, but the Auditor shall be liable in the same manner as the Treasurer is while keeping or disposing of such security.

Stocks may be delivered up for cert'n purposes

Auditor responsible.

SEC. 7. Any person may establish, or any number of persons may associate to 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 amount of the capital stock of any such corporation shall not be less than fifty thousand dollars; and the Auditor of State shall not deliver to any incorporation, notes for circulation, until such corporation shall have deposited with and transferred to him the full amount of fifty thousand dollars worth of stocks as named in section three of this act, the same to be rated as provided in said section, and the capital stock as required in this section shall be paid up in cash and be and remain so much of the *bona fide* capital of such corporation. No portion of the capital stock paid in as aforesaid, shall be at any time withdrawn from such corporation so as to reduce the remaining paid up capital then actually held by and in the possession of such corporation below the estimated value of the stocks deposited with and then in the possession of the Auditor or Treasurer belonging to such corporation, which shall be paid up in cash, and be and remain so much of the *bona fide* capital of such corporation. No portion of the capital stock paid in shall be at any time or under any circumstance, withdrawn from such corporation, so as to reduce the remaining capital paid in

Bank may be established.

Capital stock limited.

Capital stock must be paid in cash.

Withdrawal of capital.

actually and held by and then in the possession of such corporation below the estimated value of the stocks then held by and in the possession of the Auditor or Treasurer belonging to such corporation.

SEC. 8. Such person or persons under their hands and seals, shall, previous to their receiving from the Auditor, the circulating notes as aforesaid, make a certificate which shall specify :

Certificate of

Name of bank.

*First :* The name assumed to distinguish such corporation, and to be used in its dealings.

Place of business

*Second :* The place where the business is to be carried on, designating the particular city, town or village, and the county.

Amount of capital stock.

*Third :* The amount of capital stock which shall be divided into shares of \$100 each.

Names of Shareholders.

*Fourth :* The names and residences of the shareholders and the number of shares held by them respectively.

Length of incorporation.

*Fifth :* The period at which such corporation shall commence and terminate, which certificate shall be acknowledged and be recorded in the office of the Recorder of the county where the office of such corporation shall be established, and a copy thereof shall be filed in

Certificate filed and recorded.

the office of the Secretary of State, and the Auditor of State ; and upon the recording of which certificate, the person or persons aforesaid shall become a body politic and corporate, by the name assumed as aforesaid, for

Time of incorporations.

and during the time fixed in the certificate, which shall not be more than twenty years, and by such name shall

Powers of corporation.

have power to make contracts, to grant and receive, to sue and be sued, to plead and be impleaded, in all courts and places wherein legal or judicial proceedings may be had ; to have and to use a common seal and alter the same at pleasure ; to have, hold, use and enjoy property, real, personal, and mixen with the rents, issues and profits thereof, as hereinafter provided, and to exercise all other powers conferred by this act and all grants or conveyances of real estate shall be under the seal of the corporation, signed by the President and countersigned by the Cashier.

Sec. 9. A copy of the certificate required by the eighth section of this Act, duly certified by the Recorder of the county and Secretary of State, or by either of these officers, may be used as evidence in all Courts and places, by any such corporation, or any person when such evidence may be necessary on any civil or criminal trial.

Certificate used as evidence.

Sec. 10. Such corporations shall have power to carry on the business of banking by discounting bills, notes and other evidence of debt by receiving deposits, by buying and selling gold and silver bullion, foreign coins and bills of exchange, by loaning money on personal security, 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 loans shall be made, nor shall any bill, note or other evidence of debt be discounted or purchased having more than four months to run before maturity; and in all cases, personal security shall be required.

Corporation do a gener'l banking business.

Time of discounts and security.

Sec. 11. The shares of such corporations shall be deemed personal property, and shall be transferable on the books of the corporation, only and in such manner as may be provided in the by-laws of such corporation; and every person becoming a share-holder by such transfer, shall, in proportion to his shares, succeed to all the rights of the share-holder or share-holders by whom the transfer was made; no change shall be made in the articles of Association, or of the shareholders or members thereof, by which the rights, remedies or securities of its existing creditors may be impaired, such corporation shall not be dissolved by the death or insanity of any of the share-holders therein, when there is more than one share-holder in such association. Taxes shall be levied on and paid by the corporation, and not upon the individual stockholders; the value of the property to be ascertained annually by the Bank Commissioners herein provided for; and the rate of taxation shall be the same as that required to be levied on other taxable property by the revenue laws of the State.

Shares transferable.

Rights of creditors cannot be impaired.

Taxes levied.

Valuation of property.

Sec. 12. Contracts made by any such corporation,

Contracts made by officers of bank. and all notes by them issued and put in circulation, shall be signed by the President and Cashier thereof, and all suits, actions and proceedings brought or prosecuted by or in behalf of such corporation, may be brought or prosecuted in the name of the corporation; and no such suit, action or proceeding shall abate by reason of the death, resignation or removal from office of any President, but may be continued the same as if such death, resignation or removal from office had not taken place.

Suits not discontinued.

Actions may be brought against corporation.

SEC. 13. Any person or persons having demands against any such corporation, may maintain action or actions against such corporation, which suits or actions shall not abate by reason of the death, resignation, or removal from office of any President or other officer, but may be continued and prosecuted to judgment against the corporation; and all judgments and decrees obtained against such corporation for any debt or liability of such corporation, shall be enforced against the property of the same, except such judgements or decrees as may be obtained against share-holders as herein provided.

Bank receives the interest on stocks

SEC. 14. The Auditor shall give to any corporation so transferring stocks in pursuance of the provisions of this act, power of Attorney to receive interests or dividends thereon, and apply the same to their own use; but such power may be revoked upon such corporation failing to redeem the circulating notes so issued, or whenever in the opinion of the Auditor the principal of such stock shall become insufficient security; and whenever any

Auditor may exchange stocks for circulating notes.

such corporation shall go into liquidation, or in any other manner proceed to close up its affairs, the Auditor shall, upon application of the owner or owners of such stock, re-transfer the same or any part thereof to such owner or owners upon receiving and cancelling an equal amount of such circulating notes delivered to him by such corporation in such manner that the circulating notes outstanding, shall always be secured in full by the pledge of stocks, which cancelled circulating notes after descriptive lists thereof have been made and recorded by the Auditor and Treasurer shall in presence of these officers be consumed by burning, and in case they shall

Bank bills destroyed.

fail to so burn any notes returned to them for that purpose, they shall be deemed guilty of felony, and liable to a fine of not more than \$5,000 and imprisonment in the Penitentiary not less than five nor more than twenty years.

Punishment for failure to destroy

SEC. 15. In case such corporation shall fail or refuse to pay any bill or note on demand in the manner specified in the 28th section of this act, the Auditor, after ten days notice given in two newspapers printed in the city of New York, shall proceed to sell at public auction in the city of New York, the public stock so pledged, or such portion as may be necessary, and out of the proceeds of such sale shall cancel and pay the said bill or note default in paying which shall have been made as aforesaid; 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 Auditor for their redemption.

Should bank suspend the stocks are sold.

State not responsible.

SEC. 16. The public stock deposited with the Auditor by any such corporation shall be held, *first*, for the security of notes of such corporation put in circulation as money until the same are redeemed as herein provided, *second*, for the payment of depositors, *third*, for the payment of all other liabilities and the excess for the use of stockholders.

Public stocks applied to payment of liabilities.

SEC. 17. The plate, dies and materials, which may be furnished by the Auditor for the printing and marking of the notes provided for hereby, shall remain in his custody and under his direction, and the expense incurred in executing the provisions of this act shall be audited and settled by the Auditor, and paid out of any money in the Treasury not otherwise appropriated; and for the purpose of reimbursing the same, the said Auditor is authorized and required to charge against and receive from such corporation applying for such circulating notes, such rate per cent thereon as may be sufficient for that purpose.

Auditor retains plates, &c.

State pays expense.

Bank reimburses

SEC. 18. It shall not be lawful for the Auditor or other officer to countersign notes for any corporation, to

Countersigned notes invalid.

any amount in the aggregate exceeding the public stock deposited with the Treasurer by such corporation, rated as provided in the third section of this act, and any Auditor or other officer who shall violate the provisions of this section, shall upon conviction be adjudged guilty of a felony and shall be punished by a fine of not less than five thousand dollars, and be imprisoned not less than five years in the penitentiary.

**SEC. 19.** Every corporation under the provisions of this Act shall be liable to pay the holder of every note put in circulation, the payment of which shall have been demanded and refused, damages for the non-payment thereof in lieu of interest at the rate of twelve and one-half per cent. per annum from the time of such refusal, until the payment of such debt and the damage thereon, *Provided*, That no damage shall be allowed on such demand after the bank has gone into liquidation. The President and Cashier of every corporation formed pursuant to the provisions of this Act, shall keep a true and correct list of the names of all the share-holders of such corporation, and shall file a copy of such list in the office of the Clerk of the county where the office of such corporation may be located, and also in the office of the Auditor on the first Monday in January in every year, but the holder of any claim against such bank or corporation payable on demand or due at the time of going into liquidation, shall be entitled to interest at the rate of ten per cent. per annum until paid, and all other claims shall bear the same rate of interest after maturity.

**SEC. 20.** It shall not be lawful for any corporation under this Act to make any of its notes put in circulation as money, payable at any other place than at the office where the business of the corporation is carried on; every corporation which may be authorized under the provisions of this Act, shall be located in some city, town or village having a population of not less than five hundred inhabitants, nor shall the office where the business of such corporation is transacted be at any other place than the city, town or village, wherein such corporation is located.

Over issue punished.

Bank pays damages arising from suspension.

Record of shareholders made and filed.

Creditors allowed interest.

Notes payable at bank.

Place of transacting business.

SEC. 21. No corporation shall issue or put in circulation any notes of such corporation unless the same be made payable on demand, and every such corporation shall always keep on hand an amount of specie sufficient to redeem all such bills or notes as may be presented at the place of payment.

Notes payable in specie on demand

SEC. 22. Each corporation shall always keep on hand an amount (in addition to that required to be kept on hand by the provisions of the preceding section,) equal to twenty-five per cent. of the amount of specie deposits in specie, and the same proportion of its other deposits for the security of depositors; but no such corporation shall pay any interest on current deposits.

Amount of specie to be kept on hand.

SEC. 23. No corporation organized under the provisions of this Act shall at any time pay out on loans or discounts, or in purchasing drafts or bills of exchange, or in payment of depositors, nor shall it in any mode put in circulation the notes of any bank or banking company, which notes shall not at that time be redeemable in specie at the place where such notes are made payable.

Circulation of foreign notes prohibited.

SEC. 24. All grants, conveyances, assignments, transfers, sales or disposition of property, rights, credits or effects by any such corporation, for the purpose or with intent to secure the payment of one liability in preference to another or others, or in any manner to secure any priority or preference to any one or more creditors or which shall be intended to have such operation or effect, shall be void in respect to all other persons and creditors whose rights or remedies may be affected thereby.

Bank cannot prefer creditors.

SEC. 25. It shall be lawful for such corporation to purchase, hold and convey real estate for the following purposes: 1st, such as shall be necessary for its immediate accommodation, banking houses and buildings connected therewith, in the transaction of its business: 2d, such as it shall purchase at sales under judgments, decrees or mortgages held by such corporation and at sales under judgments and decrees in favor of others, where it is done with the sole view of securing and saving debts due or to become due to such corporation.

Purchase of real estate.

For banking house.

To secure debts.

**SEC. 26.** The said corporation 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 the President and cashier or either may sell, assign, grant or convey under direction of the corporation free from any claim thereon in favor of or against the shareholders, or any person claiming under them.

**SEC. 27.** Upon the application of the Auditor or of any shareholder or shareholders whose shares shall amount to five thousand dollars or of any person or persons holding evidences of indebtedness against any such corporation to that amount, which application shall set forth in full the facts and circumstances upon which it is made and shall be verified by affidavit, the Judge of the District Court of the county in which the business of the corporation may be conducted, may order an examination to be made by any competent person or persons to be by him appointed, of the affairs of such corporation for the purpose of ascertaining the safety of its investments and the prudence of its management and the result of such examination together with the opinion of the Judge thereon shall be published in such manner as he shall direct, and who shall make such order in respect to the expense of such examination as he may deem proper.

**SEC. 28.** If any corporation organized under this act shall refuse to pay any of its circulating notes in gold or silver coin, the lawful currency of the United States, on which payment shall be lawfully demanded at its banking house or customary place of doing business, during usual banking hours, the holder of such note or notes making such demand may cause the same to be protested as hereinafter provided; such corporation shall only be allowed to make payment of any such demand in silver coin where the sum so demanded does not exceed the amount for which silver coin is a legal tender according to the laws of the United States; and when payment shall be demanded on more than one of its notes at the same time, the aggregate amount of such

Bank cannot buy  
real estate.

Conveyances.

An examination  
of the affairs of  
the bank may  
be ordered by  
District Judge.

Act of insolvency

Refusal of specie  
payment.

Payment in sil-  
ver.

notes to the amount of one hundred dollars shall be considered on demand when any notes the payment of which has been refused as aforesaid are sought to be protested. The Notary Public who presents the same for protest shall present at each time so many of said notes, (if so many there be,) as will amount in the aggregate to the sum of one hundred dollars, and protest the same in like manner as if said notes were but a note, and so in like manner for all such notes if they do not in the aggregate amount to one hundred dollars; and the Auditor on receiving and filing in his office such protest, shall forthwith give notice in writing to the corporation, the maker or makers of such notes, to pay the same, and if he or they shall omit to do so, the Auditor shall immediately thereupon, (unless such corporation shall satisfy him by affidavits, filed in his office, that they or he had a good defence as against the person presenting the same to a recovery thereof,) give notice in at least one paper printed (if any paper is so printed or published) at the place of business of such corporation so refusing payment of any notes, (and in one newspaper published at the seat of government of the State of Iowa,) that all the circulation issued by such corporation will be redeemed out of the trust funds belonging to the corporation which made and issued such protested note, to the payment *pro rata* of all such circulating notes, whether protested or not, and shall adopt such measures for the payment of such notes as will in his opinion most effectually prevent loss to the holders thereof; and as soon as any such note shall be protested as aforesaid, and a copy of such protest shall be delivered to the President, Cashier or principal Clerk, at the office or place of business of the corporation, the powers and duties of any such corporation over or with the same shall cease and determine, and all the officers connected with the same shall be prohibited from exercising any control over the same, unless by the decision or decree of the court in which proceedings may be had for the appointment of receivers and winding up of the affairs of the corporation it shall be determined that

Amount of notes  
in one demand.

Notes protested.

Protest filed and  
Auditor notifies

Stocks sold in  
case of refusal.

Powers of corpo-  
ration cease af-  
ter protest.

Bank continued  
for proceedings  
in court.

such corporation was not bound to pay the note or bill protested as aforesaid, the protest thereof to the contrary notwithstanding, providing that the legal existence of the corporation shall continue for purposes of proceedings in courts for and against the same and of avoiding the loss of property of any kind, for want of a person in being to hold the same, but for no other purpose whatever, and it shall be the duty of the Auditor to apply to any Judge of the District Court of this State, whose duty it shall be to appoint (a disinterested person or persons) a Receiver or Receivers who shall reside in the county in which the bank is situated, to take the assets and property of every such corporation into his or their possession, and collect and apply all such assets and property as may come into his or their possession under the direction of the District Court of the county in which the corporation was located; 1st, to the redemption or payment of circulating notes; 2d, to the payment of deposits; 3d, to the payment of all other indebtedness; 4th, to the payment of stockholders. If the Auditor shall not proceed to wind up the affairs of such corporation on the reception and filing by him of the protest aforesaid, the holder or owner of such protested note shall have such rights at law and equity against such corporation as any creditor has against his debtor according to the laws of this State. Receivers appointed under the provisions of this act shall give bond and security as may be required by the Judge or Court appointing him.

Receivers appointed.

Assets applied to redemption of notes, &c.

If Auditor refuses creditor may proceed.

Bond of receiver.

Notes preferred to all liabilities.

Liability of stock holders.

SEC. 29. That the distribution and application of all the means, assets and property of such corporation as shall come into the hands of any such Receiver or Receivers, or shall be in the hands of the Auditor, shall first be applied in payment and satisfaction of all notes issued as and for a circulating medium by any such corporation.

SEC. 30. Stockholders or shareholders in corporations organized under the provisions of this act shall be individually and severally liable to the creditors of the corporation of which they are stock holders or share

holders over and above the amount of stock by them held, to an amount equal to their respective shares so held, for all its liabilities accruing while they remained stock holders, and no transfer of stock shall affect such liability, and should any such association become insolvent and its assets be found insufficient to pay its debts and liabilities, its stock holders may be compelled to pay such deficiency in proportion to the amount of stock owned by each, and should the whole amount for which stock holders are individually responsible, as provided in this section, be found in any case to be inadequate to the payment of all the residue of the debts of any corporation after the application of its assets to the payment of such debts, then the moneys due from stock holders on account of their individual liabilities as such, shall be distributed equally among all the creditors of such corporation, in proportion to the amount due to each. The personal liability, in this section provided for, is over and above the stock owned by stock holders and any amount paid thereon.

Transfer of stock not affect liability.

All debts paid.

Personal liability defined.

SEC. 31. It shall be the duty of the officers having charge of any bank established under the provisions of this act, to cause to be made out on the first Monday of January and July of each year duplicate statements showing the names at length and place of residence of each stock holder of such bank, together with the amount of stock owned by each, and the transfer of all stock, the date of such transfer, the amount so transferred, and the persons by and to whom transferred, one of which statements shall be posted in some conspicuous place in the banking house, and shall be continually exposed to public inspection during banking hours. The other of said statements shall be caused by the bank to be filed with the Recorder of Deeds of the county in which such bank is located, and a copy of such last named statement duly certified by the Recorder in whose office the same is filed shall be *prima facie* evidence of the facts therein contained in any court of justice in this State.

Statements made of

Names of Stockholders.

No. of shares and all transfers.

Statements posted and filed.

Evidence of facts

SEC. 32. That each and all the provisions of this

**Act applies.** 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.

**Election of Commissioners.** **Their duties.** **Powers of Commissioners.** **Reports published.** **Eligibility of Commissioners.** SEC. 33. There shall be elected at each regular biennial session of the General Assembly, by the two houses thereof in joint convention assembled, three electors of the State as bank Commissioners, whose duties shall be to make semi-annual examination, and as much oftener as they shall deem advisable, in respect to the affairs and business of associations incorporated under the provisions of this act, and in respect to the condition and management thereof, and the amount of specie on hand for the redemption of notes and percentage of deposits on hand, and also to inspect the securities filed with the Auditor and Treasurer so as to be able to determine whether or not any change has been made in said securities, as well as in respect to the sufficiency of such securities to meet the liabilities of the corporation, and also to determine whether said Bank complies with the provisions of this law, and to report thereon to the Auditor and to each corporation. Such Commissioners shall have power to examine all books, papers and documents appertaining to the business of the corporation, and to swear or affirm all officers, agents and others connected with the corporation in respect to any matter of thing about which they have the right to inquire, and their reports shall be published in some newspaper at the seat of government, and in a newspaper published in the county in which the bank does business, and if there be no paper published in such county, then in a newspaper published in the nearest county thereto:—*Provided*, That neither of the Commissioners elected in accordance with the provisions of this section shall be engaged either directly or indirectly in banking under act, this either as stockholder, director or under-officer, and should either of them so engage in banking, so elected, it shall be construed as a full resignation of his office as Commissioner.

SEC. 34. Such Bank Commissioners before entering

upon the duties of their office shall take and subscribe an oath or affirmation faithfully and impartially to perform all the duties enjoined upon and required to be performed by them, which said oath or affirmation shall be filed in the office of the Secretary of State.

Commissioners qualify.

SEC. 35. If the said Bank Commissioners shall ascertain upon any examination which they may make that any change has been made in the securities deposited with the Treasurer, or that any part thereof has been lost, destroyed or improperly withdrawn, or in any way or manner misused or misapplied, or that securities have from any cause become lessened in value or insufficient as security for the redemption of bills of circulation they shall notify the President and Cashier of such corporation liable to be affected by any such state of facts of the discovery thereof, and require the transfer and deposit of other security of the like value with those originally transferred, to supply the place of those changed, lost, destroyed or improperly withdrawn, or which shall have become insufficient security as aforesaid, in a reasonable time to be fixed by said Commissioners, or that said corporation surrender to the Auditor a sufficient amount of bills to be burned to reduce the liability of such corporation to such sum as that the securities in possession of the Treasurer will be sufficient for the redemption of all notes not so surrendered; and in case of any failure to comply with any such requisition the Commissioners shall report the facts to the Auditor, as well as to all the other corporations incorporated under the provisions of this act, and the Auditor shall thereupon proceed to put such defaulting incorporation into liquidation as provided for in case of failure, to redeem or pay notes on demand. If the said Bank Commissioners shall ascertain upon any such examination that any bank has in any manner failed to comply with the provisions of this act, they shall immediately report the same to the Auditor, who shall thereupon proceed to put such defaulting incorporation into liquidation, as provided for in case of failure to redeem or pay notes or bills on demand.

Stocks destroyed or depreciated must be replaced, or bills be refunded.

Failure to comply with an act of insolvency.

Law non-complied with an act of insolvency.

SEC. 36. Thomas Hedge, of Des Moines county,

**First Board of Commissioners appointed.** George L. Davenport, of Scott county, P. Gad. Bryan, of Warren county, Thomas A. Graham, of Tama county, and E. G. Potter, of Jackson county, shall be and they are hereby appointed Bank Commissioners, who shall hold their office until their successors are elected and qualified. Said commissioners shall, during their term of office, perform the duties prescribed by this act.

**Salary of Commissioners to be paid by banks.** SEC. 37. The Bank Commissioners created by this act, shall each be entitled to receive for their services, for every day actually spent in making the semi-annual examination by this act required, the sum of five dollars per day, which said sum shall be apportioned among the said banks by the Commissioners, in proportion to the amount of their capital, and when the said bank commissioners shall deem it necessary to visit any bank oftener than twice in each year, and shall make such visitation, said bank shall pay each of said Commissioners the sum five dollars for every day actually spent in such visitation.

**Examinations.** SEC. 38. Said Bank Commissioners may cause such semi-annual or other examinations to be made by any one or more of their number as they may determine, but all action by them contemplated in section 35 of this act, shall be decided by a majority.

**Quarterly statements of** SEC. 39. Every corporation who shall hereafter carry on banking business under the provisions of this act shall make out and transmit to the Auditor of State, a full statement of its affairs, as they existed on the first Monday of January, April, July and October, of each year, verified by the oath of its President or Cashier, which statement shall be deposited in the office of said Auditor, by the 20th day of each of said months in each year, which statement shall be published quarterly in the nearest newspaper, and such statement shall contain :

**Capital stock.** *First*—The amount of capital stock of the corporation paid in, and invested according to law.

**Real estate.** *Second*—The value of the real estate, specifying what portion is occupied by the corporation for the transaction of business.

*Third*—The debts owing to the corporation, and the date and amount of each bill or note discounted, and when the same was made payable. Bills receivable.

*Fourth*—The amount of debts owing by the corporation, and the amount deposited with other banks. Bills payable.

*Fifth*—The amount of notes or bills then in circulation of said corporation, of loans or discounts and specie on hand; what amount of notes of other banks is held by such corporation, and the amount loaned to Directors and stockholders in such corporation. Circulation and liability of stock holders.

*Sixth*—The amount of suspended debt held by such corporation. Suspended debts and

*Seventh*—The amount of per centage of deposits on hand. Deposits.

SEC. 40. Every corporation that shall neglect or refuse to make out or transmit the statement required in the thirty-fifth section of this Act, shall be restrained from the further prosecution of the banking business, and shall forthwith go into liquidation. Statement not made an act of insolvency.

SEC. 41. Whenever any corporation desirous of relinquishing the banking business, shall have redeemed at least ninety per cent. of their circulating notes, and shall produce a certificate from the State Treasurer, certifying that such corporation has deposited in his office, subject to the order of the Auditor, a sum of money equal in amount to the notes of such corporation then outstanding, it shall be lawful for the Auditor to receive the same and to give up all the securities theretofore deposited by such corporation, for the redemption of the notes issued, which sum so deposited with the State Treasurer aforesaid, shall be appropriated solely to the redemption of the outstanding notes of such corporation, subject to the provisions hereinafter mentioned. Method of closing

SEC. 42. Every officer, agent or clerk of any incorporation authorized by this Act, who shall wilfully and knowingly subscribe or make any false statements or false entries in the books of such incorporation, or shall knowingly subscribe or exhibit false papers with the intent to deceive any persons authorized to examine as to the condition of such incorporation, or shall wilfully or know- Fraud and false entries punish'd by fine and imprisonment.

ingly subscribe or make false reports, shall be deemed guilty of felony, and upon conviction thereof shall be fined not exceeding ten thousand dollars, and be imprisoned in the State Prison not less than two nor more than fourteen years, and be forever after rendered incapable of holding any office created by this Act.

Two years notice  
of final redemption  
of notes.

SEC. 43. Such corporation, after having complied with the provisions of the preceding sections of this Act, may give notice for two years in a paper published at the seat of Government, and also in at least one paper published in the county where the said corporation shall have been located, that all circulating notes issued by said corporation, must be presented at the Auditor's office within two years from the date of said notice, or that the funds deposited for the redemption of the notes will be given up to the corporation, and on receiving satisfactory proof of the giving of such notice for the time aforesaid, the Auditor shall surrender to the order of said corporation, any securities which he may hold for the payment of any unredeemed notes of the said corporation, and the Treasurer shall deliver over to such corporation any moneys in his hands which have been deposited with him for such purpose, on the production of such certificate, such notice to be published at least three weeks in each six months of each year.

End of Bank.

Ten per cent discount allowed  
till 1863.

SEC. 44. Each corporation organized under the provisions of this Act may take, receive, or charge on any loan or discount made, or upon any note or bill of exchange or other evidence of debt discounted or purchased by them, interest at the rate of ten per centum per annum on the amount of any such note, bill of exchange or other evidence of debt so discounted or purchased, and no more until the first day of January, A. D. 1863, after which time no more than eight per cent. shall be so taken, received or charged; *Provided*, however, that interest may be reserved or taken in advance at the time of making the loan or discount according to the usual rates of banking, or as calculated in "Rowlet's interest Tables," and the knowingly taking, reserving or charging on any debt or demand discounted or purchased by

Bank discount.

Usury punished.

any corporation a rate of interest greater than that allowed by this section, shall be held and adjudged a forfeiture of said debt or demand, but the purchase of a *bona fide* bill of exchange or note payable at another place, than the place of such purchase or discount, and the taking or reserving interest thereon at the rate aforesaid from the time of such purchase or discount, until the maturity of such bill or note shall not be held usurious, although exchange on the place where it is made payable is at the time of such purchase or discount, worth a premium, nor shall the discount or purchase of a *bona fide* bill or note payable at a place between which and the place of discount or purchase there may be a difference in exchange, and the taking in addition to the rate of interest aforesaid, the rate of exchange between such places be deemed usurious, *Provided*, That in no case shall more than the current rate of exchange between such places be taken.

Sec. 45. No corporation organized under the provisions of this act, shall exist longer than twenty years.

Duration of charter.

Sec. 46. The stockholder or shareholder as used in this act shall apply not only to such persons as appear by the books of association, to be such, but also to be equitable owner of stock, although the same may appear on such books in the name of another person, and also to every person who shall have advanced the instalment or purchase money of any stock in the name of any person under twenty-one years of age, and while such person remains a minor to the extent of such advance and also to every guardian or other trustee, who shall voluntarily invest any trust funds in such stock, and no trust funds in the hands of such guardian or trustee shall be in any way liable under the provisions of this act, by reason of any such investment, nor shall the person for whose benefit any such investment may be made, be responsible in respect to such stock, until thirty days after the time when such persons respectively become competent and able to control and dispose of the same, but the guardian or other trustee making such investment as aforesaid, shall continue respon-

Stockholders defined.

Trust funds not liable.

Guardians responsible.

sible as a stockholder until such responsibility devolves upon the person beneficially interested therein, and in respect to stock held by a guardian or other trustee under a transfer of the same by a third person or under positive directions by a third person for such investment, the person making such transfer or giving such directions, and his executors and administrators shall for the purpose of this act be deemed a stockholder, and the estate of such person, if he be deceased, shall be responsible for the debts and liabilities chargeable on such stock according to the provisions of this act.

Circulation of foreign bills prohibited.

SEC. 47. No corporation organized under the provisions of this act shall put in circulation in this State the bills or notes of any bank or banking company out of the State, except such as are received in the usual course of business, nor shall any corporation either directly or indirectly exchange its notes intended to circulate as money with any bank or banking company out of this State, or with the agents of such bank or banking company, for the notes of such bank or banking company, with a view to circulate the same as money.

Take effect.

SEC. 48. This act to be in force from and after its approval by a majority of all the electors of this State, voting for and against it at an election provided by law, and not otherwise.

Approved March 22d, 1858.

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## CHAPTER 115.

### INJURIES TO RAILROAD TRACKS.

AN ACT relating to the crime of placing obstructions on Railroad tracks, or removing any rail therefrom, or committing any injuries to Railroads.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* If any person or persons shall wilfully and maliciously place any obstruction on the track of