No. 279.

AN ACT

To extend the charter of the Commercial bank of Pennsylvania.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That the charter of the Commercial bank of Pennsylvania, shall be and the same is hereby continued and extended for the term of five years from the expiration of the present charter, subject to the provisions imposed by this act, and to all the provisions now imposed upon the said bank by existing laws of this commonwealth; and also subject to such further provisions as the legislature may hereafter think proper to enact for the regulation of banking institutions.

Charter continued.

SECTION 2. The total liabilities of the said bank, exclusive of deposites, shall not at any time exceed double the amount of its capital stock paid in, nor shall the debts of every kind due and to become due to the said bank, except debts due from the state of Pennsylvania, ever amount to more than three times its capital stock paid in; and the said bank shall not loan nor discount any when its circulation shall be for thirty consecutive days equal to three times the amount of specie or specie funds in its possession belonging to said bank.

Liabilities limited

SECTION 3. In addition to the returns which the said bank is now required by law to make when notified so to do by the auditor general, it shall also return on the oath or affirmation of the cashier, a statement in tabular form, showing—first, the whole amount of its liabilities; second, the amount of debts due or to become due to said bank, except as before excepted; and if upon the return so made, it shall appear that its liabilities or debts due or to become due to it, except as before excepted, shall have exceeded, for thirty consecutive days at any quarter of the last year, three times the amount of its capital stock paid in, or that its circulation was greater for thirty consecutive days than three times the amount of specie, or specie funds in its possession, it shall be the duty of the auditor general, forthwith to give notice thereof to the governor, who shall issue a proclamation, which shall be published in one newspaper in Harrisburg, and one paper in the vicinity of the said bank, declaring its charter forfeited; and the said bank shall go into liquidation, under the provisions of the act of the twelfth of March, one thousand eight hundred and forty-two, entitled "An Act to provide for the resumption of specie payments by the banks of this commonwealth, and for other purposes."

Statements.

SECTION 4. That the stockholders of the said bank, and of every bank hereafter incorporated, as well as every bank whose charter is renewed, shall be jointly liable to the creditors of such bank, in their individual capacity, for the amount of notes issued, in an amount not exceeding the par value of the stock owned and possessed by them, respectively, in any such bank or banks, and the manner of enforcing such liability shall be as follows: In case any such bank shall violate the provisions of any law applicable to it, or becomes insolvent or in failing circumstances, by reason of the mismanagement of its affairs,

Joint liability.

Proceedings in case of violation of law.

and is compelled to make an assignment under the provisions of the second section of the act passed the twelfth day of March, Anno Domini one thousand eight hundred and forty-two, entitled "An Act to provide for the resumption of specie payments by the banks," the assignees so appointed shall proceed to make a fair and equitable appraisement of the assets of such bank, of every description, at their cash value, and also to make a list of all the debts due by such bank; and if it shall appear that the assets are insufficient to meet the liabilities, the stockholders of such bank shall be liable to make up such deficiency, in proportion to the respective stock held by each at the time such assignment is made: *Provided*, That their joint liability shall in no case exceed the amount of the par value of their stock.

Scire facias against stockholders.

SECTION 5. It shall be the duty of the assignees aforesaid, to cause a scire facias, in the name of the commonwealth of Pennsylvania, to be issued by the prothonotary of the proper county, against all the stockholders of such bank, reciting the amount of such deficiency, and requiring them to appear at the next court of common pleas, in said county, and show cause why execution should not be issued against them for such amount; and such scire facias shall also set forth the proportions due from each of the said stockholders; and it shall be the duty of the sheriff of said county, to serve the said writ upon all stockholders named in said writ, residing within his bailiwick; and it shall be lawful for the court of common pleas, or a judge in vacation, to make such order in reference to giving notice to stockholders, non-residents in the county, and named in such writ, as the case may require:

Proviso.

Provided, That the writ of scire facias shall not abate by reason of the non-joinder of any stockholder; and in case it shall appear that one or more persons in said writ named are not liable, under the provisions of this act, it shall not vitiate the proceeding against the others.

Judgment.

SECTION 6. On the return day of said writ of scire facias, it shall be the duty of said court to render judgment against all the stockholders named in said process, for the several amounts for which they are respectively liable, if no sufficient cause shall be shown to the contrary, and to award writs of execution as in other cases.

Individual liability.

SECTION 7. Every individual who owned stock in his or her own name, or in the name of any other person or persons, at the time of such assignment, shall be deemed liable for his or her proportions, under the provisions of this act; but it shall be lawful for any stockholder, either before or after process shall have been issued, to pay his or her proportional share of liability to the assignees, and receive a full discharge from the same; and the process shall be proceeded in only against the other stockholders that are liable.

Assignments.

SECTION 8. The several provisions of the act of fourteenth June, one thousand eight hundred and thirty-six, entitled "An Act relating to assignees for the benefit of creditors and other trustees," shall be held to apply to all assignments made by any bank of this commonwealth, whether under the provisions of the said second section of the act of twelfth March, one thousand eight hundred and forty-two, or otherwise; and the courts shall exercise all the powers therein given, in addition to the authority conferred by this act, to compel settlements of the accounts of the assignees, and do every other act necessary and proper to accomplish the purposes of the trust; and to compel distribution of the moneys and assets in the hands or power of the said assignees, amongst the creditors entitled, according to the just proportions due to each.

Preferred debts.

SECTION 9. The said assignees shall pay out of the assets and property of the bank, thus assigned, the debts and liabilities of the same, in the following order: First, note holders; second, depositors; third, all other creditors, except stockholders, who shall be last paid.

SECTION 10. If any president, cashier, or any other officer or clerk of any bank or savings institution in this commonwealth, shall fraudulently embezzle or appropriate to his own use, or to the use of any other person or persons, any money or other property belonging to any such institution, or left with the same as a special deposite or otherwise, he or they, upon conviction of such offence, shall be fined in a sum not less than the amount so appropriated or embezzled, and sentenced to undergo imprisonment in one of the state penitentiaries, as the case may be, to be kept in separate or solitary confinement, at labor, for any term not exceeding two years, at the discretion of the court: *Provided*, That this shall not prevent any person or persons aggrieved from pursuing his, her, or their civil remedy, against such person or persons.

Penalty for embezzlement, fraud, &c.

Proviso.

SECTION 11. Every insolvency of a bank or monied corporation, shall be deemed fraudulent, unless its affairs shall appear, upon investigation, to have been fairly and legally administered, and generally with the same care and diligence that agents, receiving a compensation for their services, are bound by law to observe; and it shall be incumbent on the directors and stockholders, of every such insolvent corporation, to repel by proof the presumption of fraud.

Insolvency.

SECTION 12. In every case of a fraudulent insolvency, the directors of the insolvent bank or monied corporation, by whose acts or omissions the insolvency was in whole or in part occasioned, and whether then in office or not, shall each be liable to the stockholders and creditors of the said bank or monied corporation, for his proportional share of their respective losses: the proportion to be ascertained by dividing the whole loss amongst the whole number of directors liable for its reimbursement.

Liability of directors.

SECTION 13. If the moneys remaining due to the creditors of such corporation, whose insolvency shall be adjudged fraudulent, after the distribution of its effects, shall not be collected in whole or in part from the directors liable for their reimbursement, the deficiency, so far as to redeem the notes issued, shall be made good by the contribution of the stockholders of the said bank or monied corporation; the whole amount of the deficiency shall be assessed on the whole number of shares of the capital stock, and the sum necessary to be paid on each share shall then be ascertained; and each stockholder shall be liable for the sum assessed on the number of shares held by him, not exceeding the nominal amount of such shares, in addition to the sums paid, or which he may be liable to pay, on account of these shares.

Contribution of stockholders.

SECTION 14. If the amount assessed on the shares of any stockholder, under the provisions of the last section, shall not be collected from such stockholder by reason of his insolvency or his absence from this state, the sum remaining due on such assessment shall be recoverable against the person from whom the delinquent stockholder, at any time within six months previous to the insolvency of the said bank or monied corporation, shall have received a transfer of the shares or any portion of the shares then held by him; and any person having made such transfer, shall be liable in the same manner and for the same proportion that he would have been liable, had he continued to hold the shares so transferred.

Liability of transferers.

SECTION 15. The term stockholders, as used in the preceding sections of this act, shall extend to every equitable owner of stock, appearing on the books of an insolvent bank, in the name of another person, and to

Stockholders.

every person who shall have advanced the instalments or purchase money of any shares of stock standing in the name of any of his children, under the age of twenty-one years; but no person holding stock as an executor or administrator, or as a guardian or trustee appointed by a last will or testament, or by a court of competent authority, and no legal or equitable owner of stock under the age of twenty-one years, shall be individually responsible on account of the shares so held.

Insolvency construed.

SECTION 16. The term insolvency used in the preceding sections, shall be construed to apply to any bank which is compelled to make an assignment, according to the provisions of the first section of this act, and it shall thereupon be the duty of the directors of such bank, for the time being, within ten days after such assignment, to file in the office of the prothonotary of the court of common pleas of the proper county, verified by oath or affirmation, a full statement of its affairs, containing

Statement.

Stock.

I. An account of capital stock of the bank, the amount paid in, and the amount of stock held by such corporation.

Real estate.

II. The quantity, description, and value of the real estate of such bank.

Shares of stock.

III. The shares of stock held by the bank, whether absolutely or as collateral security, with their number and value.

Debts collectable.

IV. The debts owing to said bank, and the amount of said debts that are then collectable.

Liabilities, &c.

V. The amount of debts owing by the said bank, with the amount of notes or bills in circulation, amount of deposites and all other liabilities, together with the amount of its loans and discounts, and of specie on hand.

Losses.

VI. A particular account of the losses of the corporation, and the causes of its insolvency.

List of stockholders.

VII. An accurate list of the names and residences, and the amount of stock held by each stockholder in said bank, at the time of, and for six months prior to, the time of the said assignment.

Statement to be presented to court

SECTION 17. If the court shall be in session when the said statement is filed, the same shall be immediately presented to the court by the said directors, for examination, and if the court should not be in session at such time, then the said statement shall be presented upon the first day of the session of the court thereafter; and it shall thereupon be the duty of the court to appoint three competent auditors, who shall be duly sworn or affirmed, to make a strict investigation of the affairs of such bank, the accuracy and fairness of the statement thus presented to the court, and to perform their duties with fidelity.

Auditors' powers, &c.

SECTION 18. The auditors thus appointed, shall have power to compel the production of the books and papers, and to subpœna and examine the directors and officers of such bank, and generally to have and exercise all the authority now conferred on auditors by the existing laws, and after having performed their duties, they shall report to the court the result of their investigation; and in case they report that the insolvency was fraudulent, it shall be their duty also to ascertain and report the amounts due from the several directors, according to the liabilities imposed by the provisions of this act.

Proceedings of court to determine fraud.

SECTION 19. The said court shall thereupon, proceed to the investigation of the matters contained in said report, and shall determine whether the insolvency of said bank or monied corporation, was fraudulent or otherwise, or if they deem it necessary for the purposes of justice, may direct an issue at the request of any person interested, to try the fact, of fraudulent insolvency, and if the judgment of the court, upon the report of the auditors, or upon the verdict rendered upon such issue, should be that the insolvency of such bank was fraudulent, then, and in such case, the said court shall proceed to decree against the directors the amount due from each, according to their several liabilities; and the several courts of common pleas, for the purpose of carrying into effect the provisions of this act, shall have the same powers and authorities to obtain the appearance of persons, thus made amenable to their jurisdiction, and to compel obedience to their orders and decrees, and enforce execution thereof, as are now by law vested in the said courts, in cases of trusts: *Provided*, That before this act shall go into operation, it shall first be accepted and approved of at a general meeting of stockholders, to be called for the purpose of taking the subject into consideration. Proviso.

SECTION 20. That the legislature hereby reserves the power to alter, revoke or annul the charter of the said bank, whenever in their opinion it may be injurious to the citizens of the commonwealth, in such manner, however, that no injustice shall be done to the corporators thereof. Legislative reservation.

SECTION 21. So much of any act or acts of assembly, as are hereby altered or supplied, be and the same is hereby repealed. Repeal.

JAMES ROSS SNOWDEN,
Speaker of the House of Representatives.
WILLIAM BIGLER,
Speaker of the Senate.

APPROVED—The twenty-sixth day of April, one thousand eight hundred and forty-four.

DAVID R. PORTER.

No. 280.

AN ACT

Authorizing the chief burgess and town council of the borough of Pinegrove, in the county of Schuylkill, to build a lock-up house in said borough.

SECTION 1. *Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania in General Assembly met, and it is hereby enacted by the authority of the same,* That the chief burgess and town council of the borough of Pinegrove, in the county of Schuylkill, be and the same are hereby authorized to furnish materials and build, or provide and support in or contiguous to the said borough, at the expense of said borough, a suitable building to be used and occupied as a lock-up house for said borough, for the security and temporary detention of persons committed by justices of the peace of said county, for any violation of the laws of this commonwealth, for which such person or persons could lawfully be committed to the common prison, there to remain and be kept until such offender or offenders