No. 228.

A SUPPLEMENT

To an act to incorporate the Lancaster County Bank, passed fifth May, one thousand eight hundred and forty-one.

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 stockholders of the Lancaster County Bank, shall be jointly liable to the creditors of said bank, in their individual capacity, for the amount of notes issued, and deposites, and all other liabilities of the said bank, and the manner of enforcing such liability, shall be as follows: In case said 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, 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 this act shall not take effect unless immediately after the acceptance thereof by the stockholders, the said bank shall resume the payment of specie for its notes and other liabilities: *And provided,* That if at any time hereafter, the said bank shall fail or refuse to redeem its notes, and pay its liabilities in gold and silver coin, upon demand being made at the banking house of said bank, during banking hours, such refusal or failure, shall be deemed and taken to be an absolute forfeiture of its charter, and the said bank may thereupon be proceeded against, to compel an assignment, according to the provisions of the second section of the said act of twelfth March, one thousand eight hundred and forty-two.

Joint liability of stockholders.

Manner of enforcing, &c.

Proviso.

SECTION 2. 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 said 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: *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

Duty of assignees

Proviso.

said writ named, are not liable under the provisions of this act, it shall not vitiate the proceeding against the others.

SECTION 3. 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. Judgment.

SECTION 4. 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. Who are liable.

SECTION 5. 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 the said bank, 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 to 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. Act relative to assignments applied to said bank.

SECTION 6. 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, noteholders; second, depositors; third, all other creditors, except stockholders, who shall be last paid. Order of paying liabilities.

SECTION 7. That the books of the said bank shall be open to the inspection of any stockholder who may desire to examine the same. Books.

SECTION 8. If any president, cashier, or any other officer or clerk of said bank, 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 said 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.

SECTION 9. Every insolvency of said bank 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. Fraudulent insolvency.

SECTION 10. In every case of a fraudulent insolvency, the directors of the said bank, by whose acts or omissions the insolvency was in whole Liability of directors.

or in part occasioned, and whether then in office or not, shall each be liable to the stockholders and creditors of the said bank 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.

Deficiencies, how paid.

SECTION 11. If the moneys remaining due to the creditors of said 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 shall be made good by the contribution of the stockholders of the said bank; 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, in addition to the sums paid, or which he may be liable to pay on account of these shares.

Liability of transferces.

SECTION 12. 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.

Stockholder defined.

SECTION 13. 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 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 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 defined.

SECTION 14. The term insolvency, used in the preceding sections, shall be construed to apply to said bank, when 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.

Capital.

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

Estate.

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

Stock.

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

Debts to bank.

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

Debts of bank.

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.

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

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. Stockholders' names, &c.

SECTION 15. 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. Presentation of statement.

SECTION 16. 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. Auditors' powers and duties.

SECTION 17. 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 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. Investigation by court.

SECTION 18. All the provisions of the act to incorporate the Lancaster County Bank, passed fifth May, eighteen hundred and forty-one, and of the second section of the act for the relief of the children of David Long, and for other purposes, passed eighteenth March, eighteen hundred and forty-two, which provided for the execution and transfer of mortgages by the stockholders, for the security of the creditors of the said bank, be and the same is hereby repealed, and the liability of the stockholders as herein provided for, is substituted for the said securities by mortgage: *Provided*, That before this act shall go into operation, it shall be first accepted and approved of at a general meeting of stockholders, to be called for the purpose of taking the subject into consideration: *And provided also*, That the directors shall give notice by weekly Repeal of former acts relating to bank. Proviso.

Notice of alteration of charter.

publications, in one or more newspapers published at Lancaster and at Harrisburg, for the period of three months, of the alteration in the charter of said bank, produced by this act.

FINDLEY PATTERSON,
Speaker of the House of Representatives.
WILLIAM P. WILCOX,
Speaker of the Senate.

Approved—The eighth day of April, one thousand eight hundred and forty-five.

FRS. R. SHUNK.

No. 229.

AN ACT

To extend the charter of the Bank of Chambersburg, and for other purposes.

Charter extended

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 Bank of Chambersburg," 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.

Liabilities of bank limited.

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 government of the United States, and the state of Pennsylvania, ever amount to more than three times its capital stock paid in; and the said bank shall not loan or discount any, when its circulation shall be equal, for thirty consecutive days, to three times the amount of specie or notes of specie paying banks in its possession, belonging to said bank; and any balances which shall be standing to the credit thereof, in specie paying banks, and which shall be convertible into specie at the pleasure of said Bank of Chambersburg.

Returns.

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 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 the 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