No. 331.

AN ACT

To extend the charter of the Western Bank of Philadelphia.

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 Western Bank of Philadelphia shall be and the same is hereby extended and continued, for the purpose of transacting the business of banking, at any place within the limits of the city of Philadelphia, for the term of ten years from the expiration of the present charter, with the capital stock as at present fixed by law, subject to the provisions imposed by this act, and to the provisions now imposed upon the said bank, by existing laws of this commonwealth, and to such further provisions as the legislature may hereafter enact, for the general regulation of banks within this commonwealth.

Charter extended for ten years.

SECTION 2. The stockholders of the said bank shall be individually liable for the debts and engagements thereof, except debts due to other banks, in such sums as may be equal to the par value of the stock owned and held by them, respectively, therein: *Provided,* That the debts due, and to become due to the said bank, except debts due from the state of Pennsylvania, and balances due from other banks, shall never amount to more than three times the amount of its capital stock paid in.

Individual liability.

SECTION 3. It shall be the duty of the president and cashier of said bank to prepare, or cause to be prepared, a register of the stockholders thereof, setting forth the amount of stock at its par value held by each of them, respectively, which register shall be made and dated as of the first Monday of May and November of every year, and shall be attested by the signatures of the president and cashier; and on such first Monday of May and November, such register shall be set up and exposed to public view, in some conspicuous and open part of the banking room, and shall so remain for six months thereafter, during the usual hours of banking business; and the persons named and described in such register, shall, for the purposes of this act, be deemed to be the holders of the stock set opposite their names, respectively, until the succeeding register of stockholders shall be prepared and exhibited, in like manner; saving to them always the right to shew, in any action against any person, that such register was incorrectly made: *Provided however,* That no suit shall thereby abate as against any other defendant.

Register of stockholders *to be set* up in bank.

SECTION 4. It shall be lawful for any creditor, or person having a claim upon contract, express or implied, against such bank, to join in his suit or action, whether at law or in equity, as co-defendants with the bank, all such persons as were stockholders, (as by the last exhibited register, made in accordance with the provisions of section third of this act) in the same manner as if such stockholders had been personally parties to such contract; and in such suit or action shall recover judgment, as well against such stockholders as the bank: *Provided however,* That in actions and proceedings, founded on notes or bills, transferable by delivery, or amounts due for moneys deposited, the day on which payment of such notes or bills, or moneys deposited, may have been

Suits, how brought.

Proviso.

demanded of the bank, and payment refused, shall be taken to be the time of the contract, and under the judgment so rendered, execution shall be first levied upon the estate and effects of the bank; and if sufficient assets of such bank cannot be found to satisfy such judgment and the cost, then the residue thereof may be levied upon the estate and effects of the stockholders: *Provided however*, That any such suit or action shall be brought within six months after the time of contract, express or implied: *And provided further*, That in all cases within the jurisdiction of aldermen or justices of the peace, there shall be the same right to sue, in the same manner as is provided for by this act, for suits in court; and subject to the same regulations in the proceedings as is herein provided, so far as the same are applicable to the jurisdiction and proceedings of aldermen and justices of the peace.

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Section 5. In any suit or action, to be brought by force of this act, it shall be lawful for any stockholder to make defence; and if it shall appear to the court, that he hath been legally compelled to pay or contribute moneys on account of such bank, by reason of his liabilities under this act, in such case he shall be allowed to default, or set off the amount of such payment, and the judgment shall be rendered accordingly; and in case after judgment rendered against him, any stockholder shall be legally compelled to pay or contribute moneys on account of the bank, by reason of his liabilities under this act, he shall be entitled to such relief against executions levied thereafter, as to the court, on application, shall seem just and reasonable.

Defence to such suit may be made.

Section 6. Any stockholder who, by force of this act, hath been compelled to pay moneys on account of the bank, shall be entitled to claim contribution from all others jointly liable with him; and for that purpose he may, at the discretion of the court, have execution against his co-defendants, upon the original judgment, or such of them as may be liable to contribution, for such sum as they may respectively be liable for to him.

Rights of stockholders.

Section 7. It shall in all cases be lawful for a stockholder, who is made a defendant under any of the provisions of this act, to pay into court, or to the assignees or trustees who may be appointed, a sum equal to the amount of his liabilities, under the second section of this act; for which payment he shall be entitled to have a certificate, and thereupon he shall be discharged from all such liabilities.

Upon payment of amount of liability into court, to be discharged.

Section 8. It shall be the duty of the sheriff, or officer to whom original process, under this act, shall be directed, to serve the same, by delivering a copy thereof to the president or cashier of the bank, if either of them can be found, and by causing thereafter a copy thereof to be published for at least one calendar month, before the return day thereof, in at least two newspapers published nearest the banking house; and he shall specially return the time and manner of such service, which shall be deemed to be full service of the process on the bank, and on the defendants named therein.

Service of process.

Section 9. Writs of original process, under this act, may be made returnable on any day in term or vacation; and it shall be lawful for the plaintiff to sign judgment, on or after the tenth day following the return, notwithstanding an appearance, unless the defendants, or some of them shall previously have filed a sufficient and legal affidavit of defence, stating therein the nature and character of the same: *Provided however*, That no such judgment shall be entered unless at the time of suing out such process, the plaintiff shall have filed, in the office of the prothonotary of the court, a copy of the bill, note, instrument or writing, or other written evidence of his claim, if any such there be; and if

Return of writs.

Proviso.

there be no such written evidence, then a full and complete account of such his claim legally verified by affidavit.

Further remedies provided.

SECTION 10. If upon the sheriff's return to any writ of execution, issued under this act, it shall appear that any stockholder named in the register, heretofore prescribed, hath not estate and effects adequate to satisfy his liabilities under such execution, it shall be lawful for any creditor to proceed, by bill of discovery or otherwise, to determine whether other persons than such registered stockholders, were in truth and fact interested as owners in the stock standing in his name; and thereupon to have relief and remedy against all persons secretly interested in such stock, as if they had been named in the register aforesaid.

SECTION 11. If the president or cashier shall omit or neglect to cause the register, hereinbefore provided for, to be made and exposed to public view, according to the third section of this act, each of them shall incur a penalty of fifty dollars, for every day such omission or neglect, to be recovered by action of debt, as sums under one hundred dollars are by law recoverable, one-half to the use of the informer, and one-half to the use of the poor.

Penalty for neglecting to provide the register aforesaid.

Embezzlement, how punished.

Proviso.

SECTION 12. If any president, cashier, or any other officer or clerk of the 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 the said institution, or left with the same as a special deposite or otherwise, he shall, upon conviction of such offence, be fined in a sum not less than the amount so appropriated or embezzled, and sentenced to undergo imprisonment in the state penitentiary, 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.

When the concerns of the bank may be directed to be closed.

SECTION 13. Whenever, on the petition of any creditor, or on information by the attorney general, it shall be made to appear to the court of common pleas for the county of Philadelphia, that judgments have been recovered against said bank, within this commonwealth, and that there have not been found estate and effects of the bank, adequate to the satisfaction of such judgments; or whenever, on the petition of any stockholder or stockholders, owning together at least one-fourth of the stock, it shall be made to appear to the said court, that the bank is in failing circumstances, or that the president and directors thereof, are wasting and mismanaging the affairs and estate thereof, in any such case, the said court shall forthwith enjoin the president and directors from further intermeddling with the estate and affairs thereof; and as soon thereafter as may be directed by the court, a general meeting of the stockholders shall be called by the prothonotary; and at such meeting of the stockholders, trustees may be chosen by the stockholders, to close the concerns of the said bank, according to the provisions of the acts of assembly in that behalf made and provided; or a new election for directors may be ordered, to be held at such time as the said court may direct.

Provision of certain acts, made applicable to this bank.

SECTION 14. The several provisions of the act of the fourteenth of June, one thousand eight hundred and thirty-six, entitled "An Act relating to assignees for the benefit of creditors and other trustees," and the supplements thereto, 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 assignees, and to do every act necessary and proper to accomplish the purposes of the trust; and to compel distribution of the moneys and assets in the hands, or under the control of the said assignees, amongst the creditors entitled thereto, according to the just proportion due to each.

SECTION 15. The said assignees shall pay, out of the assets and property of the said bank, in case of any assignment, 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 paid last. Order of payment.

SECTION 16. At all meetings of stockholders of said bank, and in conducting the election for directors thereof, the stockholders shall be entitled to vote in proportion to the number of shares held by them respectively, as follows, that is to say: for every share of stock, not exceeding ten shares, the holder shall be entitled to one vote; for every two shares of stock above ten, and not exceeding twenty additional shares, the holder shall be entitled to one vote; and for every five shares of stock above thirty, and not exceeding one hundred, the holders shall be entitled to one vote; and for every ten shares above one hundred, one vote: *Provided, however*, That no stockholder shall be entitled to vote, who is not actually a resident of Pennsylvania: *And provided also*, That no stockholder shall be entitled to a greater number of votes, than one-fourth of the entire number of shares of stock in said bank. Votes. Proviso. Proviso.

SECTION 17. The real estate which the said bank may, at any time, acquire by purchase or otherwise, (except the property and banking house of which it may become possessed, and hold, for the purpose of transacting its business therein,) shall, until disposed of by said bank, by a *bona fide* sale, be subject, at any time, to redemption by the party from whom it last passed to said bank, upon payment of the sum of money, (for which it may have been purchased or otherwise obtained,) with legal interest thereon, in full. Redemption of real estate held by bank.

SECTION 18. It shall not be lawful for said bank, to make or declare any dividend to the stockholders thereof, except from profits actually acquired above the par value of the stock; and no such dividend shall be made at any time, that will, in anywise, impair or diminish the capital stock of said bank. Dividends.

SECTION 19. It shall be the duty of the president and cashier of said bank to file, or cause to be filed in the office of the prothonotary of the court of common pleas of Philadelphia county, a duplicate of each semi-annual register, made out in pursuance of the provisions of the third section of this act, on or before the second Monday in May and November of every year; and the said duplicate, or copies thereof, certified by the said prothonotary, under his hand and seal of office, shall be competent evidence in any court of law or equity, to prove the contents of the register so made out as aforesaid, of which it is a duplicate. Duplicate of register to be filed in the prothonotary's office.

SECTION 20. It shall be the duty of the president and cashier, for the time being, within thirty days before the expiration of the present charter, to prepare a just and full exhibit of the affairs and condition of the bank, setting forth on the one side, particularly, and under such separate heads and sub-divisions, as may be proper for presenting clearly, a view of the various sorts and classes of assets to it belonging; the amount of coined money and bullion; current notes, and bills of other banks within the state and elsewhere; promissory notes; bills of exchange, bonds and other debts of individuals and corporations due, or to become due; balances due from other banks, solvent and otherwise; A full exhibit of the effects and liabilities of the bank, to be made.

public and corporate stocks; real estate, claims against individual or corporations disputed, and in controversy, and any other property of said bank, as the same stand charged and recorded on the books thereof; and setting forth, moreover, in regard to each title and sub-division of such assets, what is in the judgment of such president and cashier, the actual marketable cash value of the items included within the same; which said exhibits shall, also, set forth on the other side, the debts and liabilities of said bank, particularly specifying under distinct heads, the amounts due to depositors; to note-holders; to other banks; to corporations generally; to individuals. and the amount of claims made against said bank, and remaining in controversy.

Exhibit to be verified by oath or affirmation.

SECTION 21. The said exhibit shall be verified, and accompanied by the oath or affirmation of said president and cashier, duly attested by a magistrate or justice of the peace, to the following effect, namely:—that they, the said president and cashier, have carefully examined the books and muniments of the bank, and have compared the same with the said exhibit, and have inspected the several items of assets, or the evidences thereof, in the said exhibit referred to, and have, according to the best of their judgment and ability, valued each of said items of assets at the absolute cash price, which it would produce in open market, at the time; and that they verily believe, that the said exhibit presents a a true, fair and just summary of the actual condition of the bank, as required by the preceding section; and that, in their judgment, the actual *bona fide* cash capital of said bank, is fully worth the amount appearing in said exhibit.

Exhibit to be transmitted to secretary of commonwealth.

SECTION 22. Said exhibit and affidavits shall, thereupon, be transmitted by said president and cashier, to the secretary of the commonwealth, who shall present the same to the governor; and thereupon, all other the requisitions of this act having been first complied with, if it shall appear to the governor, that the absolute cash value of the assets of the bank, after all just deductions made, is fully equal to the capital prescribed by the charter, in such case letters patent shall issue, declaring the same, and this act shall thereupon go into effect.

Letters patent.

Duty of governor.

SECTION 23. If it shall appear to the governor, on the examination of such exhibit by him. that the absolute cash value of the assets of the bank, after deductions made, is not equal to the amount of capital prescribed, in such case the capital shall be reduced, so as to be equal to the real amount of such clear assets of the bank, and every share of the stock thereof, shall be reduced accordingly; and thereupon, letters patent shall issue, declaring the renewal of the charter, with such reduced capital: *Provided however*, That letters patent shall, in no event issue, unless it shall appear that the clear assets of the bank are fully worth, in cash, a sum equal to three-fourths of the full capital stock prescribed by the charter.

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When this act shall take effect.

SECTION 24. The foregoing provisions of this act shall go into effect upon the expiration of the present charter: *Provided*, That at any time before the period, at any meeting of the stockholders of said bank, called for the purpose of considering the same, the holders of a majority of shares voting thereat, shall testify their acceptance thereof in writing, which shall be transmitted to the governor, and filed in the office of the secretary of the commonwealth.

Reservation.

SECTION 25. 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.

SECTION 26. So much of any act or acts of assembly, as is hereby altered or supplied, is hereby repealed. Repeal.

FINDLEY PATTERSON,
Speaker of the House of Representatives.
DANIEL L. SHERWOOD,
Speaker of the Senate.

APPROVED—The seventh day of April, one thousand eight hundred and forty-six.
FRS. R. SHUNK.

No. 332.

A SUPPLEMENT

To the act incorporating the Union railroad and mining company, passed the twelfth day of June, one thousand eight hundred and thirty-nine.

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 time for making the railroad contemplated to be constructed by the said company, under their charter, with all the powers and franchises given to said company, are hereby extended for the term of five years from the passage of this act; and the said company are hereby authorized, in lieu of making said road, to unite with any other railroad which will accommodate their land, and to subscribe to the stock thereof, such amount as may be necessary, not exceeding the sum which they are now authorized to expend in making railroads.

Time for completing extended.

SECTION 2. All notices to the stockholders of said company, shall be deemed sufficient, if published for three successive weeks in one paper in the borough of Harrisburg; and if any stockholder of said company shall neglect, or refuse to pay such instalment as may be assessed upon his stock, for the purpose of paying the taxes upon the lands or stock of said company, and other necessary expenses, for the space of six months after public notice given, as aforesaid, it shall be lawful for the treasurer of said company, after giving three weeks' public notice, as aforesaid, to sell at public vendue or auction, so much of the stock of such delinquent stockholder, as shall be necessary to pay the instalments due thereon, with the costs of sale; and to transfer the same to the purchaser, upon the books of the said company, subject to the condition that the owner of such stock may, at any time within six months after such sale, redeem the said stock, by paying to the treasurer of said company, for the use of the purchaser thereof, the price bidden for the same, with ten per centum thereon.

Proceedings in case of delinquent stockholders.

FINDLEY PATTERSON,
Speaker of the House of Representatives.
DANIEL L. SHERWOOD,
Speaker of the Senate.

APPROVED—The eighth day of April, one thousand eight hundred and forty-six.

FRS. R. SHUNK.