

behalf of the state, in and about such prosecutions, as the attorney-general might or ought to do, if personally present.^(a)

5. SEC. 2. Every prosecutor of the pleas as aforesaid, before entering upon the duties of his office, shall take and subscribe, before the clerk of the county for which he has been appointed, or before one of the judges of the court of common pleas for such county, the following oath or affirmation, viz: I, ———, do solemnly promise and swear (or affirm, as the case may be), that I will faithfully, justly, and impartially execute the duties of prosecutor of the pleas of the state, in and for the county of ———, to the best of my abilities and understanding. So help me God. ^{Oath of prosecutors.}

6. SEC. 3. The said prosecutors shall, severally, during the continuance of their appointments, be vested with the same powers, subject to the same penalties, and entitled to the same fees for services, in the absence of the attorney-general, within their respective counties, as the attorney-general is or shall by law be vested with, or subject or entitled to. ^{Powers of prosecutors.}

7. SEC. 4. In case of the absence of the attorney-general and of the prosecutor as aforesaid, at any term of the court of oyer and terminer and general jail delivery, or general quarter sessions of the peace, in any county, it shall be lawful for such court to appoint some fit person to prosecute the pleas of the state during said term; who, on taking the oath or affirmation above prescribed, shall be vested, during the said term, with the powers of a prosecutor of the pleas, and be entitled to the same fees and subject to the same penalties. ^{When court to appoint.}

^(a) The offices of attorney-general and prosecutor of the pleas cannot be held by the same person at one and the same time, and where a prosecutor of the pleas accepts the office of attorney-general he thereby avoids the former office, without any formal resignation, *The State, Clawson v. Thompson, Spec. 689.*

Banks.

I. FORMATION OF BANKS, THEIR POWERS AND DISSOLUTION.

1. Who may associate to establish banks. Capital stock.
2. Certificate of association to be made and recorded. Location of office or place of business.
3. Certificate, evidence. Upon making and recording same, persons associating a body corporate. Legislature may dissolve.
4. Powers of associations.
5. Shares personalty and how transferred. Restrictions on change of articles.
6. Capital may be increased.
7. Power to hold real estate.
8. Name.
9. Who shall sign notes.
10. Associations to possess powers of general act concerning corporations.
11. Change to national banks.
12. Compensation for stock, in case of change, to non-consenting stockholders. Proceedings in case of disagreement as to price.
13. Proceedings to apply to trustees, &c. Proceedings in case of absence or disability of owners.
14. Assets pass to the new bank.
15. Return of deposits of stock, on the bank ceasing business.
16. Notice of redemption of notes.
17. On dissolution by stockholders, State Treasurer to reassign property deposited. Proviso.
18. Surrender of franchise, how made.

II. ISSUE OF NOTES AND DEPOSITS OF SECURITIES THEREFOR.

19. State Treasurer to prepare notes. To be registered in office of treasurer. Registers.
20. Issue of notes to banks, when.
21. Bills and notes how to be stamped.

22. Plates, &c., to be kept by State Treasurer.
23. Penalty for over-issues of notes.
24. Association not to do business until deposit of required securities. Bond of treasurer.
25. Registry of notes delivered.
26. What stocks may be deposited.
27. One-third of amount of notes to be issued may be secured by mortgages.
28. Regulations as to mortgages transferred as security.
29. Securities, how endorsed.
30. Commissioners to be appointed to estimate value of real estate mortgaged. To certify mortgages.
31. When bank may collect interest.
32. The treasurer may call for more security.
33. Securities may be changed.
34. Cancellation of returned notes.

III. REGULATION AND REMEDIES.

35. Annual statement. What to contain.
36. Penalty for neglect to make out statement.
37. Examination by Committee on Treasurer's Accounts.
38. Association to pay 12 per cent. damages for non-payment of bills.
39. List of shareholders to be kept for inspection.
40. Dividends unclaimed for three years to be advertised.
41. Balances due depositors unchanged in amount for three years to be advertised.
42. Costs of advertising.
43. Penalty for non-compliance.
44. Bills and notes not to be put in circulation unless countersigned and registered.
45. Proceedings in case of non-redemption of notes.
46. Depreciated paper not receivable.
47. Penalty for over-drawing, etc.
48. Current money, &c., sufficient tender for redemption of notes.
49. How long preceding section to continue in force.

50. Proceedings in case of failure to carry on banking in a bona fide manner.
 51. Board of Bank Commissioners. Powers of.
 52. Examination by order of Chancellor.
 53. Commission to investigate and report.
 54. Compensation of commissioners.
 55. Chancellor may limit time in which to present notes.
 56. Persons failing to present notes according to order, barred of all claim.

IV. MISCELLANEOUS.

57. Banking prohibited by associations unincorporated or not incorporated for business of banking.
 58. Tickets intended as a substitute for bank notes prohibited.
 59. Fees of Bank Commissioners, &c.
 60. Treasurer to retain securities for fees, &c.

R. S. 130, 135, 607.

P. L. 1850, p. 140.
 " 1852, p. 292.
 " 1852, p. 478.
 " 1860, p. 566.
 " 1862, p. 273.
 " 1863, p. 195.
 " 1863, p. 487.
 " 1865, p. 768.
 " 1865, p. 873.
 " 1865, p. 904.
 " 1867, p. 644.
 " 1870, p. 45.

Who may establish banks.

P. L. 1850, p. 140.

Capital stock.

Amended.

Certificate of association to be made and recorded.

Ib.

Location of office or place of business.

Certificate evidence.

Ib.

Upon making and recording same persons associating, a body corporate.

Legislature may dissolve.

Powers of associations.

Ib.

An act to authorize and regulate the business of banking.

Revision—Approved April 9, 1875.

I. Formation of banks, their powers and dissolution.

1. Any number of persons not less than seven, citizens of this state, may associate to establish offices of discount, deposit and circulation, on the terms and conditions, and subject to the liabilities prescribed in this act; and said association shall be denominated a "bank" or "banking company;" but the aggregate amount of the capital stock of any such association shall not be less than fifty thousand dollars nor more than two million dollars.

2. The persons so associating shall, under their hands and seals, make a certificate, by the terms of which such association shall be bound, which shall specify the name assumed to distinguish such association, and to be used in its dealings; the place where the banking business of such association is to be carried on, designating the particular county, township, or city in this state; the amount of the capital stock of such association, and the number of shares into which the same shall be divided; the names and places of residence of the shareholders, and the number of shares held by each of them, respectively, and the period at which such association shall commence and terminate, which shall not be for a longer term than twenty years; which certificate shall be proved or acknowledged in the same manner as deeds are by law required to be proved or acknowledged, and recorded in the office of the secretary of state and in the clerk's office of the county where the office of such association shall be established; but it shall not be lawful for any association to locate their office or place of business in any other than one of the county towns or incorporated cities, boroughs, or towns of this state, unless such association shall have first procured the certificate in writing of the governor and attorney-general, setting forth that some other place proposed by said association, as the location of their office or place of business, is a fit and proper place for the location of such office or place of business, which certificate shall be filed with the certificate to be made by said association, as hereinbefore mentioned.

3. The certificate required by the last preceding section to be recorded in the offices of the secretary of state and the clerk of the county, or copies thereof, duly certified by either of those officers, may be used as evidence in all courts and places, for and against any such association; and upon making said certificate, and causing the same to be recorded as aforesaid, the said persons so associating, their successors and assigns, shall be, from the time of commencement fixed in said certificate, and until the time limited therein for the termination thereof, a body corporate and politic, by the name mentioned in said certificate; *provided*, that the legislature may at pleasure dissolve any company created by virtue of this act.

4. Every such association shall have power to choose a board of directors, and, under the direction of such board(*a*) to carry on the business of

(a) Where the provisions of the act are not complied with, and no board of directors chosen, and only one-third of the whole amount of the capital stock paid in by the person who was afterwards chosen president, the other associates paying nothing, it was held to be a valid corporation and all the associates responsible to the full amount of the

shares subscribed for by them respectively, to pay the debts of such corporation, *Kinsela v. Cataract City Bank*, 3 C. E. Gr. 158. And another bank having dealt with such corporation for four years, was held to be estopped from setting up by way of defence that it was not a lawful corporation, *Rafferty v. Bank of Jersey City*, 4 Vr. 368.

banking (at the place specified in their certificate, and not elsewhere), (a) by discounting bills, notes, and other evidences of debt, receiving deposits, buying and selling gold and silver bullion, foreign coins, and bills of exchange; may loan money on real and personal security; also may choose one of their own number to be president, appoint a cashier and such other officers and agents as their business may require; may remove such president, cashier, officers and agents at pleasure, and appoint others in their places; may establish by-laws for their government, and exercise such other incidental powers as shall be necessary to carry on such banking business.

5. The shares of every such association shall be deemed to be personal property, and shall be transferable on the books of the association, in such manner as shall be specified in their articles of association; and every person becoming a shareholder by such transfer, shall, in proportion to his shares, succeed to all the rights and liabilities of prior shareholders; and no change shall be made in the articles of association, by which the rights, remedies, or security of its existing creditors shall be weakened or impaired.

Shares personally and how transferred.

Ib.

Restrictions on change of articles

6. It shall be lawful for any association of persons organized under this act, by their articles of association to provide for an increase of their capital, not to exceed two million dollars in the whole, and of the number of the associates, from time to time, as they may judge to be proper, and also, for the election of directors to manage the affairs and business of such association; and in case of any such increase of capital, it shall be the duty of any such association to file a certificate thereof, as required by the second section of this act, within ten days after such increase shall have been determined upon.

Capital may be increased

Ib.

7. It shall be lawful for such association to purchase, hold, and convey such real estate as shall be necessary for its immediate accommodation in the convenient transaction of its business, or as shall be mortgaged to it in good faith, by way of security for loans made by, or moneys due to such association, or as shall be conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or such as it shall purchase at sales under judgments, decrees, or mortgages held by such association; and that the said association shall not purchase, hold, or convey real estate in any other case or for any other purchase.

Power to hold real estate.

Ib.

8. No association incorporated under this act, or otherwise, for the purpose of banking, shall be designated by the name of any other bank or banking association in this state, and the name and location thereof shall be in large legible letters upon all their circulating notes.

Name.

P. L. 1852, p. 478.

9. All contracts made by such association, and all notes and bills by them issued and put in circulation as money, shall be signed by the president or vice-president and cashier thereof. (b)

Who shall sign notes, &c.

P. L. 1850, p. 140.

10. This act shall be deemed and taken to be a public act; and every association organized under the same shall possess the general powers and be subject to the restrictions and liabilities contained in the act entitled "An act concerning corporations," so far as the same are applicable.

Associations to possess powers of general act concerning corporations.

Ib.

11. When two-thirds in interest of the stockholders of any bank, incorporated or organized by authority of this state, shall give their consent in writing to become an association for carrying on the business of banking under the laws of the United States, and the directors of said bank shall file in the office of the secretary of state of this state a certificate under their hands that such consent has been so given, and that said directors intend to act in pursuance thereof, said bank shall be deemed and taken to have surrendered its charter; *provided nevertheless*, that every such bank shall be continued a body corporate for the term of three years after the time of such surrender, for the purpose of prosecuting and defending suits by or against it, and closing its concerns, but not for any other business

Change to national banks.

Act April 6, 1865.
P. L. p. 873.

(a) That part of the charter of the Morris Canal and Banking Company which directs that its banking house shall be situate and its banking operations conducted at Jersey City, is directory only. A violation of it, although it might forfeit the charter, does not make the acts of the company void. *Morris Canal v. Van Vorst*, 1 Zab. 100. But when a charter provides for a company to be located at Trenton, it is a fraud upon the act to establish it at another place, and such

a corporation has no existence legal or *de facto*, *Booth v. Wonderly*, 7 Vr. 250.

(b) This includes only the ordinary contracts or business incident to banking, and does not include executing a bond and mortgage in the name and behalf of the bank, *Legget v. New Jersey Manuf. and Banking Co.*, Sax. 541. See *Trenton Banking Co. v. Woodruff*, 1 Gr. Ch. 117, and *State Bank v. Van Horn*, 1 South. *382.

or purpose, whatsoever; the board of directors for the time being of said new or national bank shall act as and be deemed and taken to be the directors of such corporation while closing its concerns during said last named period.

Compensation for stock in case of change to non-consenting stockholders.

Proceedings in case of disagreement as to price.

12. When any bank shall in the manner aforesaid have signified its purpose to become such banking association under the laws of the United States, any stockholder who may not consent to become a stockholder in such national bank shall be entitled to and receive from said original bank the full value at the time of the stock held by him or her; and in case the board of directors of such bank, after attempt made, either by its officers, agent, or attorney, cannot agree with such stockholder for the price to be paid him or her for such stock, and cannot procure from such stockholder such consent aforesaid, it shall be lawful for such bank, upon ten days' notice in writing to such stockholder, to make application to any justice of the supreme court for the appointment of three disinterested and impartial commissioners to make an estimate and appraisal of the value of such stock; and such commissioners, having taken an oath or affirmation fairly and honestly to make such appraisal according to the best of their skill and understanding; and having caused notice in writing to be given to such stockholder, for at least five days, of the time and place of their meeting to make said appraisal, shall proceed to make the same; and when so made in writing, and signed by said commissioners, or a majority of them, the same shall be conclusive and final; and the amount so appraised shall be deemed a debt due from said bank to said stockholder, and shall draw interest until paid or tendered to said stockholder, or to his or her lawful representatives; and the stock so appraised shall, upon such appraisal being made and signed as aforesaid, become the property of said bank, to be sold or disposed of, or held, as the board of directors may elect.

Provisions to apply to trustees, guardians, &c.

Proceedings in case of absence or disability of owners.

13. All the provisions of this act shall apply to stock held or legally owned by one or more persons as trustee, guardian, or other legal representative; and in case the legal owner or owners of any stock cannot be found in this state, or shall be under age, or of any legal disability to transfer the same, said commissioners may be appointed as aforesaid by said judge upon the application of said bank, notice of such application having been first given for the space of three weeks, in one or more newspapers published in the county in which said bank is located; and the appraisal and valuation of such commissioners shall be of the same force and effect as for other cases is hereinbefore provided.

Assets pass to the new bank.

14. When the charter of any such bank shall be surrendered to the state, as hereinbefore provided, and any such bank shall have been organized as a banking association under the laws of the United States, or have become capable in law as such national bank to take and hold property, all the assets, real and personal, of any such bank shall immediately by act of law, and without any conveyance or transfer, be vested in and become the property of the said association, formed as aforesaid under the laws of the United States, to be held by said association or its stockholders in as ample and beneficial a manner for all purposes as the same can, by virtue of the laws of the United States, be held and enjoyed; but nothing in this section shall be so construed as to impair the obligation existing in the first section of this act.

Return of deposits of stock on the bank ceasing business.

P. L. 1850, p. 140.

15. When any banking association, under the provisions of this act, shall be desirous of relinquishing the banking business, and shall have redeemed at least eighty per centum of their circulating notes, shall have returned the same to the treasurer, and shall have delivered to him a certificate of deposit to his credit, in such bank as he shall approve, to an equal amount with the circulating notes of such association still unredeemed, it shall be lawful for the treasurer to receive the same, and to give up all the securities deposited by such association for the redemption of notes issued to such association.

Notice of redemption of notes.

16. Any association, after having complied with the provisions of the preceding section, shall give notice for two years, in at least two newspapers published in the county where such association shall have been located,

that all the circulating notes issued by such association must be presented to the treasurer for payment within two years from the date of such notice, or that the funds deposited for the redemption of such notes will be given up to such association; and on receiving satisfactory proof of such notice for the time aforesaid, the treasurer shall surrender to the order of such association any securities which he may hold for the payment of any unredeemed notes of the said association.

17. It shall be lawful for the treasurer of this state, at the expiration of two years from and after the termination of any such association, to re-assign and deliver up all the public stocks, and bonds and mortgages, assigned to and deposited with him by any such association, notwithstanding all the bills and notes issued and delivered by him to such association, shall not have been cancelled; *provided always*, that the said treasurer shall have caused previous notice of his intention so to do, to be published for six calendar months in three newspapers printed in this state.

On dissolution by stockholders, State Treasurer to re-assign property deposited.

Proviso.

18. Whenever any banking association, incorporated by this state, shall determine by its board of directors, with the consent of three-fourths of its stockholders in interest, to discontinue its business and settle its affairs, it shall be lawful for such board of directors to file with the secretary of this state, a certificate in writing, signed and acknowledged by such stockholders expressing said consent, and likewise the certificate of said board of directors under their corporate seal, setting forth such intention, and that they thereby surrender to the state, their corporate privileges and powers; and thereupon said corporation shall be deemed and taken to be dissolved, except for the purpose of distributing its assets, and otherwise settling its affairs; but such bank shall, nevertheless, be continued a body corporate for the term of three years after the time of such surrender, for the purpose of prosecuting and defending suits by or against it, and closing its concerns, but not for any other business or purpose whatever; and the said board of directors shall act as trustees for that purpose, subject to the orders of the court of chancery on application of any creditor or stockholder, and to removal or any action by said court.

Surrender of franchise, how made.

P. L. 1865, p. 904.

II. Issue of notes and deposits of securities therefor.

19. The treasurer of this state be and he is hereby authorized and required to cause to be engraved and printed, in the best manner to guard against counterfeiting, at the request and expense of any bank organized under this act, such quantity of notes for circulation, in the similitude of bank notes, in blank, and 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, and of such form as he may prescribe; which blank notes for circulation shall be countersigned, numbered and registered in proper books, to be provided and kept for that purpose in the office of said treasurer, under his direction, either by himself or by such clerks or registers as he shall, with the advice and consent of the governor and attorney-general, appoint for that purpose, so that each denomination of such notes for circulation shall bear the uniform signature of such treasurer or registers or one of them; and that before any clerk or register, appointed under the authority of this act, shall enter upon the discharge of the duties of his office, he shall give bond to this state, with sufficient sureties, to be approved by the governor and chief justice of this state, and in such sum as they shall direct, with condition for the faithful discharge of the duties of his office, which bond, being first endorsed as approved by the governor and chief justice, shall be filed in the office of the secretary of state; and if the treasurer shall, at any time, employ any clerks or registers under the provisions of this act, without his having first given bond as aforesaid, he shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine, or by fine and imprisonment, the fine not to exceed five thousand dollars, nor the imprisonment five years.

State Treasurer to prepare notes.

P. L. 1850, p. 140.

P. L. 1863, p. 487.

To be registered in office of treasurer.

Clerk or register to give bond.

Penalty for treasurer employing clerk or register without bond.

20. Whenever any association of persons, resident in this state, formed for the purpose of banking under the provisions of this act, shall legally transfer to the treasurer securities, that is to say, public stocks or public

Issue of notes to banks, when.

P. L. 1850, p. 140.

- stocks and bonds and mortgages as hereafter prescribed, such association shall be entitled to receive from the treasurer an equal amount of such notes for circulation, of different denominations, registered and countersigned as aforesaid.
- Bills and notes, how to be stamped.
P. L. 1852, p. 292.
21. The bills and notes authorized to be stamped on their face, as provided in the act to which this is a supplement, and whose security may be based upon public stocks, shall be stamped on their face, "secured by public stocks in the state treasury," and those bills or notes whose security may be based on public stocks and bonds and mortgages shall be stamped on the face, "secured by public stocks and bonds and mortgages in the state treasury;" *provided*, that the amount of notes for circulation issued under the provisions of this act, and remaining outstanding, shall at no time exceed ten millions of dollars.
- Proviso.
- Plates &c., to be kept by State Treasurer.
P. L. 1850, p. 140.
22. The plates, dies and materials, to be procured by the treasurer for the printing and making of such notes for circulation, shall remain in his custody and under his direction; and the expenses necessarily incurred in executing the provisions of this act shall be audited by the secretary of state and settled by the treasurer, and paid out of any money in the treasury not otherwise appropriated, upon the written order or warrant of the governor; and, for the purpose of reimbursing the same, the treasurer is hereby authorized and required to charge against, and receive from each association applying for such notes for circulation such rate per centum thereon as will repay the expenses necessarily incurred as above mentioned; and the treasurer shall, at the close of each year, assess on all the banking associations constituted under this act, a ratable and equitable amount, in proportion to their respective capitals, of all other expenses incident to, or necessarily incurred in carrying into effect the several provisions of this act, which sums shall be paid by said associations, respectively, to the treasurer.
- Expenses to be assessed.
- Penalty for over-issues of notes.
P. L. 1850, p. 140.
23. It shall not be lawful for the treasurer, or other officer, to countersign bills or notes for any association, to an amount in the aggregate exceeding the public stocks, or public stocks and bonds and mortgages at their value, as provided in this act, deposited with the treasurer by such association; but the treasurer may receive notes issued by him for circulation under the provisions of this act, which have become mutilated and unfit for circulation, and may deliver in lieu thereof, other notes for circulation to the same amount; and any treasurer or other officer who shall intentionally violate the provisions of this section, shall, upon conviction, be adjudged guilty of a misdemeanor, and shall be punished by a fine of not less than five thousand dollars, or by imprisonment for a term of not less than five years, or both.
- Mutilated paper.
- Association not to do business until deposit of required securities.
P. L. 1850, p. 140.
24. No association of persons shall commence the business of banking under the provisions of this act, until such association shall have deposited with the treasurer the required securities; and the treasurer, before he shall enter upon the discharge of any of the trusts or duties imposed upon him by this act, shall enter into bond to this state, and annually thereafter, with sufficient sureties, to be approved of by the governor and chief justice of this state, in such sum as they shall direct, with condition for the faithful performance of the trusts and duties imposed upon him by this act; which bond, being first endorsed with the approval of the governor and chief justice, shall be filed in the office of the secretary of state.
- State Treasurer to give bond.
- Registry of notes delivered.
P. L. 1852, p. 478.
25. When the treasurer shall deliver any notes to any association, according to the provisions of the act to which this is a supplement, he shall exhibit the same to the auditor, who, in a book to be provided for the purpose, shall enter thereon the amount delivered, the time when delivered, the name of the association, and the amount of each denomination, together with a description of the securities deposited therefor.
- What stocks may be deposited.
P. L. 1850, p. 140.
P. L. 1865, p. 768.
26. The public stocks to be transferred and deposited as aforesaid, shall in all cases be, or made to be, equal to a stock producing six per centum per annum; and it shall not be lawful for the treasurer to take any such stock at a rate above its par value, or which shall not be worth upon a sale made one hundred cents on the dollar; such public stocks shall be either the public stocks of
- I. The state of New Jersey;
II. The United States of America;
- 1b.

III. The states of Massachusetts, New York, Pennsylvania, or Ohio; and such other bonds as are now or may hereafter be by law authorized to be used for the purpose aforesaid.

27. Instead of transferring public stocks as aforesaid, to secure the whole amount of such bills or notes, it shall be lawful for any such association, in case they shall so elect, before receiving any such bills or notes for circulation, to secure the payment of not more than one-third of the whole amount so to be issued, by making and executing directly to the treasurer, or by transferring to him bonds and mortgages upon real estate, payable at a period not exceeding one year, bearing at least six per centum interest, payable annually or semi-annually; *provided*, that no bond and mortgage shall be received unless accompanied by a proper deduction of title and certificates of the proper officers, in whose offices encumbrances might exist upon the property mortgaged, touching encumbrances thereon, nor until the said bond and mortgage shall be examined by the attorney-general of this state, and his opinion in writing given that the same are in proper and legal form, that the title of the mortgagor to the mortgaged premises in fee simple is good, and that the said premises are clear of encumbrances.

28. Such mortgages shall be only upon improved, productive, unencumbered lands within this state, worth, independently of any buildings thereon, at least triple the amount for which they shall be so mortgaged; and no mortgage shall be for a greater amount than five thousand dollars; and the treasurer shall, in addition to the provisions in that respect hereinafter required, prescribe such other regulations for ascertaining the title and value of such lands, as he may deem necessary; and he may (if it shall become necessary, for the purposes contemplated in this act) use all proper means to collect such bonds and mortgages, or may (for like purposes) transfer the same, for the amount of principal and interest due thereon.

29. The treasurer of the state shall endorse upon every bond, mortgage, and certificate of stock, when received and deposited with him as security for bank bills countersigned by him, the words "not to be transferred except the same shall be signed by the treasurer, secretary of state, and any justice of the supreme court."

30. The governor shall appoint and commission, in each county of this state commissioners, not exceeding three, to ascertain the value of all real estate mortgaged as aforesaid; and each commissioner shall, before he executes the duties of his office, make affidavit by oath or affirmation, and signed by him, before the clerk of the county for which he shall be appointed, faithfully and impartially to execute the duties of his office, which said affidavit shall be filed in the office of the secretary of state, and such commissioner shall hold his office for three years, unless sooner removed by the governor; and no mortgage upon real estate shall be received as security, until a certificate is presented and filed in the office of the treasurer of the value of said real estate, the improvements of the same, and the annual value thereof, as near as may be, signed by two commissioners resident in the county in which said real estate may be situate, not interested in said real estate or related to or connected in business with the person or persons desiring said certificate.

31. The treasurer may give to any association of persons in this state transferring stock or mortgages to him in pursuance of the provisions of this act, powers of attorney to receive the interest or dividends thereon, which such association may receive and apply to their own use; unless default shall be made in paying the bills or notes to be countersigned as aforesaid, or unless the bonds and mortgages, or stocks so pledged, shall become an insufficient security for the payment of such bills or notes, when such powers may be revoked, and the treasurer may receive the dividends on all stocks as well as the interest on all bonds and mortgages deposited by such association, and deposit the same in some safe bank or banking association in this state, in his name, in trust for the association to which the same may belong; the deposit to be made on such terms and at such rate of interest, not beyond the legal rate, as the treasurer may deem most conducive to the interest of such association, and to be with-

ib.

One-third of amount of notes to be issued may be secured by mortgages.

P. L. 1850, p. 140.

Regulations as to mortgages transferred as security.

Securities, how to be endorsed.

P. L. 1857, p. 301.

Commissioners to be appointed to estimate value of real estate mortgaged.

P. L. 1852, p. 478.

Mortgage not to be received until certified by two commissioners.

When treasurer may authorize bank to collect interest and dividends.

P. L. 1850, p. 140.

Banks may receive interest.

In case of default the treasurer may receive interest.

drawn and paid over whenever in the judgment of the treasurer, the securities of such association shall be sufficient to warrant it.

The treasurer may call for more security.

32. Whenever, in the opinion of the treasurer, governor and attorney-general, or a majority of them, the securities deposited according to the provisions of this act shall become, from any cause, insufficient for the redemption of the notes issued by the treasurer to such association, he shall thereupon immediately notify the president thereof, and require such association, within five days, to place in his hands such an amount of securities of the description aforesaid as will in the opinion of the governor, attorney-general and treasurer, or a majority of them, secure in full the notes issued as aforesaid; and if, upon notice as aforesaid, such association shall neglect to comply with the requirements made by the treasurer, he shall, without delay, proceed and take the measures to redeem the notes of such association prescribed in this act, in case any association fail or neglect to pay their notes on demand.

Securities may be changed.

33. The treasurer, on the application of the owners of such transferred stock or bonds and mortgages held by him in trust, may in his discretion, change or transfer the same for other stocks or bonds and mortgages,^(a) of equal value of the kinds before specified in this act, or may retransfer the said stocks, or any part thereof, or the mortgages, or any of them, hereinafter mentioned and provided for, upon receiving and cancelling an equal amount of such circulating notes delivered by him to such association, in such manner that the circulating notes shall always be secured in full, either by stocks or by stocks and mortgages, as is in this act provided; when any sum of the principal of the bonds and mortgages, or of the public stocks which have been transferred to the treasurer, shall be paid to him, he shall notify the association which transferred the same of such payment, and may pay the same to such association, on receiving other approved bonds and mortgages or public stocks of an equal amount, or on returning to him to be cancelled an equal amount of the bills or notes delivered by him to such association for circulation as hereinbefore prescribed; the stocks and bonds and mortgages deposited with the treasurer, by any association under the provisions of this act, shall be held by him exclusively for the redemption of the bills or notes delivered to such association to be put in circulation as money, until the same are paid off and cancelled.

In case of payment securities may be transferred or notes called in.

P. L. 1850, p. 140.

Cancellation of returned notes.

P. L. 1860, p. 566.

34. All circulating notes returned to the treasurer shall immediately, in the presence of the president or cashier of the bank returning the same, be counted and cut or mutilated in the manner that checks of incorporated banks are usually cut or mutilated, and burnt or destroyed by the treasurer, in the presence of said president or cashier, on the return thereof; and the treasurer shall register in a book the amount of each denomination of notes so cut and destroyed, with the name of the association returning the same.

III. Regulation and remedies.

Annual statement.

P. L. 1850, p. 140.

35. Every such association shall, on the first day of January in every year, after having commenced the business of banking under the provisions of this act, make out and transmit to the treasurer, in the form to be provided by him, a full statement of the affairs of the association, up to and including the last day of December in every year, verified by the oaths or affirmations of the president and cashier; which statement shall be filed by the treasurer in his office, and, as soon as possible thereafter, shall be laid before the legislature, and shall contain:

To contain.

Amount of capital.

I. The amount of the capital stock of such association subscribed and paid in, the amount invested by said association, and in what manner, and the amount of such stock as is then possessed by such association;

Value of real estate.

II. The value of the real estate of the association, specifying what portion is occupied by such association for the transaction of its business;

Stock.

III. The shares of stock held by such association, whether absolutely or as collateral security, specifying each kind of stock, and the number and value of the shares of each;

^(a) Such mortgages may be foreclosed. The remedy is not limited to a mere sale and transfer of the security, *Townsend v. Smith*, 1 *Beas.* 350.

- IV. The debts owing to the association, specifying such as are due from moneyed or other corporations or associations, the names of such corporations or associations, and the amount due from each, and also specifying the amount secured by bond and mortgage or judgment, the amount which ought to be included in the computation of losses, and the total amount of such debts then collectable; Debts due association.
- V. The amount of debts owing by the association, specifying such as are payable on demand, and such as are due to moneyed or other corporations or associations, the names of such corporations or associations, and the amount due to each; Debts owing by corporation.
- VI. The amount of claims against such association, not acknowledged by it as debts; Disputed claims.
- VII. The amount for which such association is bound as surety, or for which it may become liable on the happening of contingent events; Contingent liability.
- VIII. The amount of notes or bills of such association then in circulation, also the amount of loans and discounts, and of specie on hand; Circulation, loans, specie.
- IX. The amount of losses of such association (if any), specifying whether on its capital or profits, since the last preceding statement, and of the dividends declared and made during the same period; Losses, dividends.
- X. The amount of real estate, mortgages, and of stocks, together with a description of the stocks deposited by such association with the treasurer, as security for notes for circulation issued by him to such association; the market value of such stocks, as near as the same can be ascertained, and the date to which payment of interest has been made upon such mortgages or stocks, and whether such interest has been paid to such banking association, or passed to its credit on the books of the treasurer. Amount of security deposited with treasurer, &c
36. If any such association shall neglect to make out and transmit the statement required in the last preceding section, for one month beyond the period when the same is required to be made, or shall violate any of the provisions of this act, such association may be proceeded against and dissolved by the court of chancery, in the same manner as any other moneyed corporation may be proceeded against and dissolved. Penalty for neglect to make out statement.
37. It shall be the duty of the committee of the legislature, annually appointed to examine the treasurer's accounts, to examine also the securities deposited by banking associations, together with the books and papers relating to the business of banking under the provisions of this act; also, to count all circulating bills which have been returned to the treasurer by any banking association, to cancel and destroy the same, and to give a certificate thereof to the treasurer, and generally to make such investigations as they may deem proper to enable them to report the true state and condition of all the banking associations in this state to the legislature. True state and condition of all banking associations to be examined into by Committee on Treasurer's Accounts.
38. Any such association shall be liable to pay the holder of every bill or note put in circulation by it as money, the payment of which shall have been demanded and refused, damages for non-payment thereof, in lieu of interest, at and after the rate of twelve per centum per annum from the time of such refusal until the payment of such bill or note. Association to pay 12 per cent. damages for non-payment of bills.
39. The president and cashier of every association formed pursuant to the provisions of this act shall at all times keep a true and correct list of the names and residences of all the shareholders of such association, and of the number of shares owned by them respectively, and shall file a copy of such list in the office of the clerk of the county where the office of such association may be located, and also in the office of the treasurer of this state, on the first Mondays of January and July in every year; and such list shall at all times be open, at the place of business of such association, for public inspection during the usual hours of transacting business, under the penalty of one hundred dollars for every day's neglect. List of shareholders to be kept for inspection. Penalty.
40. Each and every corporation in this state, on or before the fifteenth day of January next, and annually thereafter, shall cause to be published and continued for six weeks successively, in one newspaper having the largest circulation, published in the county in which such corporation may be located, but if no newspaper is published in such county, then in one published in an adjoining county, a true and accurate statement, verified by the oath of the president, treasurer, secretary, or other officer of the company, of all the dividends on the stock of the said company which at

the date of such statement shall have remained unclaimed by any person authorized to receive them, for three years then next preceding; which statement shall set forth the name of the person in whose favor the dividend may have been declared, its amount and date, and upon what number of shares of the stock of said company.

Balances due depositors unchanged in amount for three years to be advertised.
Ib.

41. Each and every incorporated bank of discount and deposit in this state shall publish, as provided in the last section of this act, a true and accurate statement, verified by the oath of the president or cashier of said bank, of all the balances due to depositors, or as dividends, which said balances, at the date of said statement, shall have remained unchanged in amount, and actually unclaimed by any person authorized to receive them, for three years then next preceding, and which shall exceed in the amount of each balance the sum of three dollars.

Costs of advertising.
Ib.

42. In all cases the expense of advertising the same shall be deducted from the sums unclaimed, in proportion to the amount of each respectively.

Penalty for non-compliance.
Ib.

43. Any corporation failing to comply with the provisions of this act shall forfeit fifty dollars, to be recovered in an action of debt, with costs of suit, in any court of record in this state having jurisdiction of the same, to any person claiming the same.

Bills or notes not to be put in circulation unless countersigned and registered.
P. L. 1850, p. 140.
Penalty.

44. It shall not be lawful for any association under the provisions of this act to issue or put in circulation any bills or notes which shall not have first been countersigned and registered as is hereinbefore provided; and any violation of the provisions of this section shall be deemed a misdemeanor, and, on conviction thereof, the person or persons offending shall be punished by fine or imprisonment, or both, the fine not to exceed one thousand dollars, or the imprisonment three years.

Proceedings in case makers of notes, countersigned and registered, fail or refuse to redeem such notes on lawful demand.
Ib.

45. In case the makers of any such circulating note or notes, countersigned and registered as aforesaid, shall at any time, on lawful demand, between the hours of ten and three o'clock, at the place where such note or notes is or are made payable, fail or refuse to redeem such note or notes in the lawful money of the United States, the holder of such note or notes making such demand may cause the same to be protested for non-payment by a notary public, under his seal of office, in the usual manner; and the treasurer, on receiving and filing in his office such protest, shall forthwith give notice in writing to the makers of such note or notes to pay the same; and if they shall omit so to do, for three days after such notice, the treasurer shall thereupon (unless he shall be satisfied that there is good and legal defence against the payment of such note or notes) give notice, in three or more newspapers published in this state, that all the circulating notes issued by such association will be redeemed out of the trust funds in his hands for that purpose; and the treasurer shall apply the trust funds belonging to the makers of such protested notes to the payment, pro rata, of all such circulating notes, whether protested or not, put in circulation by the makers of such protested notes pursuant to the provisions of this act; and the treasurer, after the expiration of ten days, may, by and with the advice of the governor and attorney-general, proceed to sell at public auction the stocks or bonds and mortgages, or any of them pledged by the makers of such protested notes, and out of the proceeds of such sale pay off, as aforesaid, all the notes issued to the makers of such protested notes, or, with the advice aforesaid, may postpone such sale for a period not exceeding six months, after which he shall sell and proceed as aforesaid; all costs for protesting the circulating notes issued by any banking association under the provisions of this act, shall be paid by the person or persons procuring the services to be performed, for which such association shall be liable to him or them; but no part of the securities deposited by such association (unless an overplus shall remain in the hands of the treasurer) shall be applied to the payment of such costs, nor shall anything in this act contained be considered as implying any pledge on the part of the state for any payment beyond the proper application of the securities pledged to the treasurer.

Depreciated paper not receivable.
R. S., 130.

46. When the bank bills or notes of any incorporated bank in this state, shall hereafter become depreciated, and shall pass in this state in the place where such bank is located at less than their par value, it shall not be lawful for any of the directors, or any of the officers or agents of the said

bank, to pay any debt which they may owe to the said bank in the depreciated notes or bills of the said bank; nor shall any promissory note or other evidence of debt, given to or held by any such bank of which any director or officer, or agent of the said bank, shall be the drawer, giver, or endorser, and which shall have been made, given or endorsed for or on account of any director or officer, or agent of the said bank, or which shall have been discounted for the benefit of any director or officer, or agent of the said bank, be paid to the said bank or to its receiver or receivers, or trustees, in the depreciated bills or notes of the said bank; but all such debts shall be paid either in specie, or in other bank bills or notes passing current in this state at the time at their par value; and all payments made or received contrary to this section are hereby declared null and void, and of no effect.

Such payment void.

47. If any director, cashier, book-keeper or other officer or agent of any such bank, shall knowingly overdraw his account with the said bank, by means whereof he shall wrongfully obtain money, notes, or funds; or shall in any way wrongfully use or employ any of the said money, notes, or funds of the said bank for his own private use and benefit, and contrary to his duty or trust as a director or officer, or agent of the said bank, he shall make good the same, and pay therefor during the time he shall have had the same, at the rate of ten per centum per annum thereon.^(a)

Penalty for over-drawing, etc.

R. S., 130.

48. No banking company or association in this state shall be considered insolvent, or be liable to any penalties, proceeding, or damages for the non-redemption or payment of its notes or bills, on demand, in gold or silver coin; *provided*, said banking company or association shall, at the time of such demand, tender and offer to redeem such notes with other good and current money, notes, or drafts as are at the time good and receivable in the banks of the cities of New York or Philadelphia; *and provided also*, that nothing herein shall prevent the proceeding in chancery or otherwise against any banking company supposed to be insolvent, or for any other cause, except the non-redemption of its notes or bills in gold or silver coin.

Current money, notes or drafts receivable in banks of N. Y. and Philadelphia sufficient tender for redemption of notes.

P. L. 1862, p. 273.

49. The last preceding section shall go into operation immediately, and continue in force until the same shall be suspended by the proclamation of the governor, he having previously thereto received evidence satisfactory to himself, the chancellor, and the treasurer, or a majority of them, that the banking institutions of the cities of New York and Philadelphia have resumed the payment or redemption of their notes, bills, or other liabilities in gold or silver coin.

How long preceding section to continue in force.

P. L. 1863, p. 195.

50. In case any association under the laws of this state whether specially incorporated or under the provisions of this act, shall not have a regular bona fide banking house or office in some public situation in the place where the banking business of such association is to be carried on, to be used for that purpose only, or shall not keep a regular cashier or clerk in attendance therein at the usual business hours; or in case any such association shall not carry on the business of banking, in a bona fide manner, at such place, agreeably to the true intent and meaning of this act, and any credible citizen of this state shall make an affidavit in writing setting forth that, from personal knowledge and examination, he hath reason to believe, and doth believe, that any such association is violating any of the provisions of this act, and shall deliver the same to the attorney-general of this state, it shall be his duty forthwith to apply, by petition or information, to the chancellor, setting forth the facts and circumstances of the case; and thereupon the chancellor, upon such reasonable notice being given as he shall direct, shall proceed in a summary way, to hear the affidavits, proofs and allegations which may be offered; and if upon such inquiry into the matter or cause of complaint, it shall be made to appear that the said association hath violated any of the provisions of this section of this act, or that a majority of the shares of such association are not actually held by residents of this state, the said chancellor may proceed as if said association was shown to be insolvent, and may make an order directing the treasurer to give notice that all the circulating notes issued by said association will be redeemed out of the trust funds in

Proceedings in case association fail to keep banking house, have cashier or clerk, or carry on business in bona fide manner.

P. L. 1862, p. 478.

(a) It may also be indicted, see *Crimes* § 152.

his hands after such notice; *and further*, to proceed as is directed by this act in case of the protest of circulating notes for non-redemption thereof.

Board of bank
commissioners,
powers of.
Ib.

51. The governor, secretary of state and attorney-general of state shall be a board of commissioners, to be styled "the board of bank commissioners," who, or a majority of them, shall have power to inspect and supervise said association or any specially incorporated banking association at all times, and to examine their books, papers and concerns, and to examine their officers or other persons under oath or affirmation, and after such inspection or examination, if they shall have reason to believe said associations, or any of them, are not carrying on the business of banking in a bona fide manner, and according to the true intent and meaning of this act, they shall so report in writing to the chancellor, who shall proceed on such complaint as he is directed to do in the last section of this act; and said commissioners shall have power at all times, to examine the books and papers of the treasurer relating to the business of banking, under the provisions of the act to which this is a supplement, together with the securities deposited in his office by said association, and if any such association shall neglect or refuse to submit its books, papers and concerns to the inspection or examination of said commissioners, or to a committee of the legislature appointed for that purpose, or if its officers shall refuse to be examined under oath or affirmation, touching the concerns of such association, by said commissioners or committee, the chancellor, upon complaint thereof in writing, to him made by said commissioners or committee, shall proceed as if said association was shown to be insolvent, and shall make an order similar to the order contemplated in the section of this act last preceding.

In case refusal to
allow examina-
tion by commis-
sioners.

Examination by
order of chan-
cellor.
P. L. 1850, p. 140.

52. Upon the application of creditors or shareholders of any such association, whose debts or shares shall amount to one thousand dollars, and stating facts, verified by affidavit, the chancellor may in his discretion, order a strict examination to be made by one of the masters of his court, or by any other person or persons, not exceeding three, appointed by him for that purpose, of all the affairs of such association, for the purpose of ascertaining the safety of its investments and the prudence of its management; and the result of every such examination, together with the opinion of the master, or of such other person or persons to be appointed by the chancellor as aforesaid, and of the chancellor thereon, shall be published in such manner as the chancellor shall direct, who shall make such order in respect to the expense of such examination and publication as he may deem proper; and may also make such other order or orders, and direct such further and other proceedings, as he may deem necessary and proper for the due protection of the interest of the note holders and other creditors of said association, and of the stockholders thereof.

Commission to
investigate and
report.
R. S., 135.

53. It shall be the duty of the chancellor of this state, upon application made to him by petition, by two or more directors, creditors or stockholders of any banking company in this state, upon a proper case made by the oath or affirmation of the petitioners or others, in his discretion, to appoint one or more commissioner or commissioners, with full power to investigate the situation and affairs of the said bank, and make report thereon without delay, under oath or affirmation, to the said chancellor; and it shall be the duty of the officers of the said bank, to give the said commissioner or commissioners free access to the houses, shops, vaults, trunks, chests, notes, bills, moneys, books, papers, and every other place or thing of the said company, under pain of being declared insolvent by the said chancellor, in case of refusal; and, after the said commissioner or commissioners shall have made his or their report as aforesaid, it shall be the duty of the said chancellor, if in his opinion the interest of the public or of the stockholders requires it, to proceed against said bank in the manner hereinbefore directed, with respect to insolvent banks.

Compensation of
commissioners.
Ib.

54. The said commissioner or commissioners shall receive such reasonable compensation, as the chancellor may deem just and proper, to be paid by or recovered of the said petitioners, in case no injunction issues after his or their report is made; but if an injunction shall be issued, then to be paid out of the funds or assets of the said bank.

55. In cases of proceedings in the court of chancery of this state against

any bank or banking association, it shall be lawful for the chancellor at any time to make an order limiting a time within which all the circulating notes of such bank or association shall be presented to the state treasurer for redemption, which time shall not be less than one year from the date of the appointment of a receiver or receivers in such proceedings for such bank or association, nor less than six months from the date of such order; and to designate in such order the manner of publication thereof, having due regard to the interest of the bill holders and creditors of such bank or association.

Chancellor may make limitation of time to present notes.
Act April 4, 1867.
P. L., p. 644.

56. All persons holding or owning any such circulating notes, and failing to present the same for redemption, according to the terms of such order, shall be barred of and from all claim or right to have such notes redeemed by such treasurer or out of any funds or securities in his hands deposited by such bank or association for redemption of their circulating notes; and upon proof made to the satisfaction of the chancellor that such order, or the substance thereof, has been published as by him directed, the chancellor shall make a decree accordingly, barring such persons from all such claim or right; and upon filing a certified copy of such decree with such treasurer, it shall be his duty to deliver and assign any and all moneys and securities which he may hold for the payment of the unredeemed notes of the said bank or association, to such receiver or receivers, who shall hold and dispose of the same under the chancellor's order according to law.

Persons failing to present notes according to order barred of all claim.

IV. Miscellaneous.

57. No association of citizens unincorporated, or not incorporated for the express purpose of banking or establishing a banking house or office of discount and deposit, by the laws of this state or the United States, shall be permitted to establish, directly or indirectly, within this state, any banking house or office of discount and deposit, nor to discount any note, bond, bill or other obligation, as a banking institution; and all and every person or persons who shall, contrary to the true intent of this act, be concerned in such establishment, on conviction thereof in any court in this state having cognizance of the same, shall for every such offence forfeit and pay, for the use of the state, the sum of twenty thousand dollars, and the private estate of such person or persons offending as aforesaid shall be liable for the payment of such forfeiture, and for all notes that may have been or shall be issued by the said associations.

Banking prohibited by associations unincorporated or not incorporated for purpose of banking.
R. S., 607.

58. It shall not be lawful for any person or persons, or body corporate, to issue or pay away, pass, exchange or transfer, or cause to be issued, paid away, passed, exchanged or transferred, any ticket of any denomination, whatever, intended to circulate for the payment of debts, dues or demands, in lieu of, or as a substitute for bank notes or bills, or other lawful currency of the state, (a) without first having obtained a law for that purpose, and every person or persons, or body corporate, offending against this provision, shall be liable to pay a fine of five dollars for every offence, to be recovered by an action of debt, with costs of suit in any court having cognizance of the same, by any person who will sue for the same.

Tickets intended as a substitute for bank notes or bills or lawful currency prohibited.
Ib.

59. The following fees shall be allowed and paid for services performed under this act; to the bank commissioners, the sum of fifty dollars each, per annum, to be paid by said associations to the treasurer, in proportion to their respective capitals, and by him paid to said commissioners; to each of the county commissioners the sum of two dollars for each day necessarily employed under the requisitions of this act, and five cents for each mile of travel, going and returning, in the performance of his duties, to be paid by the association requiring said service; to the treasurer for countersigning, numbering and registering circulating notes, delivered to any such association, the sum of one dollar and twenty-five cents for every one hundred sheets, of four notes on each sheet, to be paid by said association; the fees for all other services not fixed by law shall be fixed, audited, and allowed by the governor and chief justice.

Fees of bank commissioners.
P. L. 1852, p. 478.

Of county commissioners.

Of State Treasurer.

(a) This section does not prevent an individual from giving a due bill or other written evidence of a debt, or promise to pay a debt to his creditor, or an order on his

own store, or factor, or anybody else for money or goods, *Allaire v. Howell Works Co.*, 2 Gr. 21.

Treasurer to retain securities for fees, &c.

P. L. 1870, p. 45.

60. The treasurer shall retain in his possession any securities heretofore or hereafter deposited with him or his predecessor, by any banking association, until his or his predecessor's fees, charges and advances made, or credit given in account on the books of the treasury, properly payable by such bank or banking association, shall be paid.

Bastards.

I. PROCEEDINGS TO APPREHEND PUTATIVE FATHER OF BASTARD.

1. Application to justice.
2. Examination of mother of bastard. Warrant.
3. Proceedings against father if out of county. Endorsement of warrant.
4. Bond to be taken by justice endorsing warrant.
5. Thereupon discharge granted.
6. If no bond given arrest proceeded with.

II. EXAMINATION BEFORE JUSTICES.

7. Justice to associate another with himself. Proceedings of two justices.
8. Person charged may demand a jury.
9. Trial before jury.
10. Justice may grant adjournments. May take bond for appearance.
11. The finding at trial. If in his favor accused to be discharged. If adverse order of affiliation to be made.
12. Reputed father to pay costs and give bond.
13. When father to be discharged, and when committed.
14. Penalty of bond.
15. Proceedings in case bond given out of county.
16. Examination in such case.

III. APPEAL TO SESSIONS.

17. Appeal to sessions. Notice to be given to justice.
18. Justice to send up papers.
19. Proceedings in sessions.
20. When the accused to be discharged.
21. If decision is against person charged to give bond or on failure to be sent to jail.
22. Bond to appear at sessions, when forfeited.

IV. BONDS, AND SUITS ON, &c.

23. Such bonds, how prosecuted.
24. Proceedings on breach of condition of bond to perform order of filiation.
25. Remedy to township where bastard legally settled.

V. GENERAL PROVISIONS.

26. Court may discharge father when indigent.
27. Mother of bastard may be compelled to disclose name of father.
28. Proceedings against property of absconding father or mother.
29. Bastard born in poor-house.
30. Fees.
31. Definition of term "township."

An act for the maintenance of bastard children.

Revision—Approved March 27, 1874.

I. Proceedings to apprehend putative father of bastard.

Application to justice.

1. That if any woman(*a*) shall be delivered of a bastard child, which shall be chargeable or likely to become chargeable to any township; or shall declare herself to be pregnant of a child likely to be born a bastard, and to become chargeable to any township, (*b*) any overseer of the poor of the township where such woman may be, or of the township wherein the legal settlement of such woman may be, may apply (*c*) to a justice of the peace of the same county wherein such woman may be, to make inquiry into the facts and circumstances of the case.

Examination of mother of bastard.

2. Such justice shall, by the examination of such woman on oath, and upon such other testimony as may be offered, ascertain the father of such bastard, or of such child likely to be born a bastard; and shall thereupon issue his warrant, directed to any constable of the county, commanding him forthwith to apprehend such reputed father, and to bring him before such justice, for the purpose of having an adjudication respecting the filiation of such bastard, or of such child likely to be born a bastard. (*d*)

Warrant.

Proceedings against father if out of county.

3. If the person charged as such reputed father shall be or reside in any other county of the state than that in which such warrant shall be issued,

(*a*) A warrant may issue in the case of a married woman but non-access of the husband must be shown, *State v. Overseer of the Poor, 4 Zab. 533.*

(*b*) The settlement of a bastard child is at the place of legal settlement of the mother at the time of the birth, *Nottingham v. Amwell, 1 Zab. 27.* Or where the child is born if the mother have no legal settlement, *Quick v. Overseers of Amwell, Pen. *1016.* *McCoy v. Overseers of Newton, 8 Vr. 133.* Proceedings may be instituted both in the township where the mother last resided and also in the township where the child was born, *Ibid.* If the mother, before the birth of the child, remove to another state, and continue to

reside there, the child is not chargeable on any township in this state, *Richardson v. Overseer of Burlington, 4 Vr. 190.*

(*c*) The complaint need not be in writing, *State v. Overseer of the Poor, 4 Zab. 533.* No order can be made against the putative father before such application, *Anonymous, Pen. *870.*

(*d*) It is not necessary that the township have actually paid money for the expenses of the mother, before proceedings can be instituted for its relief; it is sufficient if the township has promised to pay them, *Garwood v. Waterford, 3 Dutch. 437.* The justice in issuing the warrant acts ministerially, and the putative father cannot litigate the case before him, *State v. Overseer of the Poor, 4 Zab. 533.*