

smoothe over, and veil, the utter illegality, and the gross impudence and ignorance, of those who attempted the establishment of any banking or other joint stock association, in either province, without an act of incorporation, as well as the supineness and connivance of the persons in authority, with respect to such unlawful and deceptive schemes for preying upon the public. Nay in the act itself we are discussing, although in the preamble, and in two other places, the association is called a *pretended bank*, it is generally designated as the *said bank*, and its transactions are virtually actually legalized by this very act, although by the British statute declared to be illegal and void.

It is worthy of remark too that, in the preamble, the stockholders, who are every one of them delinquents under the British act, and prosecutable for the erection of a *common and public nuisance*, are considered as parties aggrieved, and defrauded, and as part of the *creditors of the institution*, for whose benefit the act was passed; yet by sec. 2 no stockholder is to be reimbursed his deposits, till all other creditors are paid. This is the more inconsistent, since the British act declares that all persons who *have been or shall be* "engaged or interested in any such unlawful undertaking," are "personally liable" for the whole amount of all the notes or bills issued, which is recoverable, by each holder, from any one or more of the stockholders, at his own option, in any court of record, with interest from the day of the date of the notes or bills, and full costs of suit. The stockholders therefore are *public debtors and not public creditors*; and here too the injustice of the provincial act in only giving, as it does by sec. 2. interest to the holders of the notes; from the date of the certificates to be granted by the commissioners, at their own will and pleasure, and in their own good time, perhaps a year or two hence, is apparent. It is true it might not be strict *equity* to give interest from the dates of the notes; for first, they are invariably antedated long before they are originally issued, and may have been afterwards repeatedly redeemed and reissued, but it would nevertheless be strict *justice*, inasmuch as the giving of such interest would, as intuded by the British act, operate as a penalty upon the stockholders for their illegal and unwarrantable conduct in engaging in a concern that, in the words of the act of parliament, "tends to the common grievance, prejudice and inconvenience of His Majesty's subjects, or great numbers of them, in their trade, commerce, and other lawful affairs."

On this part of the subject, I will add that, upon the whole, it would have better become the dignity of the legislature to have openly stigmatised the undertaking and all similar ones, as those "*extravagant and unwarrantable practices which the act of 14 Geo. II declares to be common and public nuisances,*" than to have glossed over and virtually sanctioned, it, in order