THE CANADIAN BANK ACT.

(Third Article.)

THE ACT OF 1900.

It is the United States poet Bryant who tells his brother poet to "*touch the crude line with fear*," and to

"*mend*
The strain with rapture that with fire was penned."

It has been in this spirit that the Canadian Bank Act has been mended since 1871. Hasty legislation has sometimes been proposed, but has not been passed, the ten year term of the Bank Charters leading to the proposed amendments being, as a rule, laid by until the charters should be on the eve of expiration.

It has been considered wisest not to amend the Act piecemeal, but to bring to each renewal the calmly considered experience of the decade.

As physicians learn to promote health by the study of disease, the Bank Act of Canada has been perfected through bank failures. The failures of the Mechanics and Consolidated banks taught the lesson that banks should not be permitted to trade in one another's shares, and that the bank note required special protection.

So the Act of 1880 made the bank note a first lien on the assets and prohibited the banks from dealing in bank stocks.

The weaknesses of the Act of 1880 were brought out by the failure of the Exchange and Maritime banks, and the Act of 1890 dealt with these. Now, the weaknesses of the Act of 1890 have been brought to light by the failure of the Commercial Bank of Manitoba, the Banque du Peuple and the Banque Ville Marie, and it remains to be seen what steps will be taken to bring the Act to a higher stage of perfection. The Banque du Peuple was a bank en commandite, and was exempted from the working of certain sections and sub-sections of the Act of 1890. As the bank has passed out of existence, it will, of course, follow that all sections or sub-sections having special reference to that bank, such as section 5 will de dropped.

Section 8 providing for the inclusion of the Merchants Bank of P. E. I. under the Act when it decides upon such a step, will also be dropped, that institution having availed itself of the section.

Section 4 continuing the charters of the banks to the 1st July, 1901, receive special consideration in framing the new Act. In view of the present state of perfection to which the Act has attained, it must seem to many a serious question whether it is in the interest of trade and commerce that a revision of the Act should be called for so frequently as one in ten years. Parliament possesses the power of amending the Act at will, and in view of this fact there are strong reasons for urging that the bank charters, like those of insurance and loan companies, should be indefinite as to duration.

There is probably no branch of legislation into which the average politician throws himself with more enthusiasm, impetuosity and ignorance than the laws of trade, and it is not altogether wise to expose our excellent Bank Act, section by section, periodically to the tinkering of the inexperienced, although the capable managers of our banking institutions have in the past, and will, through their Association, in the future, be able so to present their arguments as to secure their object. Still, why should it be necessary that one year in every ten be disturbed, as far as financial circles are concerned, by the necessity of renewing the Bank Act?

Continuing with an examination of the present Act in some detail, we come to the question of the minimum of capital, as stated in sections 10 and 13. Under the present Act no bank can be established with a subscribed capital under $500,000, and of this not less that $250,000 must be paid in. It is in this question of Capital that our banks begin to show the divergence of the Canadian system from that of the United States, where banks of small capital are the rule. In Canada, however, the system of bank branches obtains, and the note issue being based upon the capital of the banks, and not upon funds deposited with the Government, much interest should naturally exist in seeing that the capital of each bank is adequate for the service and protection of the public.

The enormous increase in the number of bank agencies, in public deposits and in note circulation during the past decade has led to the voluntary increase of capital on the part of many banks, but the total increase is still very much behind the increase in liabilities. In 1890 the banking capital of Canada was about forty per cent. of the note issues and public deposits. To-day this proportion has fallen to twenty-two per cent. A moment's consideration will show how seriously such a proportionate decline affects the position of a bank creditor. The double liability clause has lost value.

Hence, we are strongly of the opinion that it will be desirable to double the present minimum subscribed and paid in capital, making these $1,000,000, and $500,000 respectively.

What to do with the small banks now in existence, with a paid-up capital under half a million is a difficult problem, so difficult that it will most likely have to be left to work out its own solution. Some step might be taken to limit the number of their branches, and thereby prevent any disaster to them from affecting an area out of proportion to their business; and they could be inspected, a thing impossible in the case of large banks.

At the same time it would be misleading to convey the impression to the public that because a bank is small it is unsafe. Some of the smaller banks are exceptionally sound, but that is because they have not attempted to spread their business over a large area.