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# SUPPLEMENT TO Upper Canada Gazette.

TORONTO, THURSDAY, JULY 13, 1837.



**AN ACT to afford relief to certain Banking Institutions, heretofore carrying on business in this Province, by enabling them more conveniently to settle their affairs, and for protecting the interests of persons holding their Notes.**

[Passed 11th July, 1837.]

**WHEREAS** there is reason to believe that about the time of the passing of the Act of Parliament of this Province, in the seventh year of His present Majesty's reign, entitled, "An Act to protect the public against injury from Private Banks," and before the passing of that Act became generally known throughout this Province, several associations of persons were engaged in carrying on the business of Banking, not being among the number of those enumerated in that Act as intended to be exempt from its provisions: *And whereas* it is expedient to afford facility to such Associations, in collecting their debts, and in the final arrangement of their affairs, in order that the prohibition against the continuance of their business may not operate injuriously to the public: *Be it therefore enacted* by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That if any person, or association of persons, were, before the first day of April now last past, engaged in carrying on the business of Banking in this Province, and in the issuing of Bills or Notes, contrary to the provisions of the said Act passed in the seventh year of His present Majesty's reign, which person or association of persons not being specified in the said Act, remains subject to the prohibitions and conditions therein contained, it shall and may be lawful for the person or persons in every such case, to apply, by petition, to the Judge of the District Court for the District in which their principal office or place of business was situated, to approve of any three persons to be named by them, as Commissioners, for the purpose of settling the affairs of such Bank or Institution; and in case the persons so named shall be approved of by such Judge, as being men of good character and substance, then such persons shall be and are hereby enabled, (using their individual names) to sue as Commissioners for settling the affairs of

such Bank or Institution, for any debt or demand arising upon any Mortgage, Bond, Bill, Note, or other security given to the said Bank or Institutions, or to any person or persons for their use, or in trust for them, or in order to secure any monies advanced by them; and the amount due upon any such security may be recovered in an action for money had and received to the use of the persons suing as Commissioners, a copy of the instrument or writing being attached to the copy of process which may be served upon the Defendant.

2. *And be it further enacted by the authority aforesaid*, That before any appointment of Commissioners shall take place under this Act, the names of all persons who have been parties to the association applying for the nomination of such Commissioners, from the commencement thereof, shall be stated in a list which shall accompany the petition, and shall remain filed in the office of the Clerk of the District Court, with such petition, and that in the said list shall be specified when each person became a member of such association, and when, if at any time, he ceased to be a member thereof, and that the correctness of such list shall be attested by the oaths of the President and Cashier of such association, or of one-third of the number of persons stated in such list to be members thereof, which oath the Judge of such District Court is hereby authorised to administer; and a copy of the Articles of Association, Agreement, or Deed of Settlement, attested in like manner, shall be annexed to the said list.

3. *And be it further enacted by the authority aforesaid*, That the Commissioners to be named in any case under the authority of this Act, shall have power to compel payment by any Subscriber to such Association or Institution, of the amount of Stock or Shares subscribed by him or her, and not paid in, in an action for money had and received to their use.

4. *And be it further enacted by the authority aforesaid*, That the holders of any Notes or Bills put in circulation by any person or association of persons coming under the provisions of this Act, may, after demanding payment from any of the Commissioners that may be appointed for settling the affairs of such Bank or Institution, sue upon such Note or Bill in the Court of Requests, or in any other Court of higher jurisdiction, as the case may require, any one or more of the persons who shall appear upon the list delivered and attested as aforesaid, to have been associated in such Bank or Institution at or after the time of such Note or Bill being issued: *Provided always*, that nothing herein contained shall interfere with any other remedy given by law to the holder of any Bill, Note, or other evidence of debt of any such Association, Bank or Institution.

5. *And be it further enacted by the authority aforesaid*, That no person or persons shall be liable to any penalty or punishment, under the said Act, passed in the seventh year of His present Majesty's reign, for any thing done contrary to the provi-

sions of the said Act, before the first day of April now last past.

6. *And be it further enacted by the authority aforesaid*, That the nomination of Commissioners shall be made at a meeting of the Subscribers or Shareholders, to be held on the first Monday in August, after the passing of this Act, at the place where the District Court is usually holden for the District in which the principal Office of any such Bank or Institution shall have been or shall be situated; and in case the Judge shall not confirm such nomination, then others shall be chosen at a meeting to be held at the same place, on a day to be named by him, by advertisement in some public newspaper of the District, giving ten days notice; and that in case of any vacancy occurring by the death, removal or incapacity, of any of the Commissioners, a successor shall be nominated and appointed in like manner, upon a notice of meeting to be given as hereinbefore provided by the Judge of the District Court.

**AN ACT to authorise the Chartered Banks in this Province to suspend the redemption of their Notes in Specie, under certain Regulations, for a limited time, and for other purposes therein mentioned.**

[Passed 11th July, 1837.]

**WHEREAS** it is necessary to protect the Banking Institutions of this Province in case a suspension of Specie payments on their part should, under the pressure of the present extraordinary circumstances, become unavoidable, and to enable them to continue their Banking operations: *And whereas* it is of great consequence to the Commercial and Agricultural interests of this Province, that the accommodation which Banks of undoubted solvency can safely extend to those engaged in business should not be suddenly discontinued, which, under the existing Laws, must be the consequence of their being compelled to suspend Cash payments; and it is therefore expedient to make such temporary provision as may afford relief against this inconvenience: *Be it therefore enacted* by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That any Incorporated Bank which shall cease to redeem its Notes or other liabilities, in the lawful Current Coin of this Province, shall not in consequence thereof be compelled to cease its Banking operations, or be deemed to have forfeited its Charter, or be rendered liable to any disability, penalty or forfeiture, by reason of its having ceased to redeem its Notes and liabilities in lawful

Current Coin as aforesaid, any thing in any Act of Incorporation of such Bank to the contrary notwithstanding: *Provided* that it shall appear proper and advisable to the Lieutenant Governor and Council, that such Bank should, under the circumstances disclosed by them, be allowed to continue their business of Banking, notwithstanding their suspension of Cash payment, in which case it shall be lawful for the Lieutenant Governor in Council to make a Minute to that effect, which shall be published in the Upper Canada Gazette, during the time of such suspension of Cash payment, and such Minute of the Lieutenant Governor and Council shall have the effect of saving such Bank from any forfeiture of their Charter, by reason of their suspension of Cash payments, before or after the making of such Minute, and from any and every penalty or disability which would or might otherwise ensue thereon.

2. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful for the Lieutenant Governor, in Council, to require from the President and Directors, or the Cashier or other Officer, of any such Bank, whatever information they may deem necessary for their satisfaction, in respect to the solvency of the Bank, and the actual condition and management of their affairs; which information they may desire to be given under the oath of the person or persons furnishing the same; and that such oath may be administered by any Judge of His Majesty's Court of King's Bench in this Province, or by any Judge of a District Court therein.

3. *And whereas*, in case of its becoming necessary for the Chartered Banks in this Province to suspend payment in Specie, it may be found impracticable for individuals, or associations of individuals, during such suspension, to obtain Gold or Silver, and it is therefore necessary to make such provision as may afford reasonable protection in that behalf: *Be it therefore enacted by the authority aforesaid*, That so long as any of the Chartered Banks in this Province shall be authorised, under the provisions of this Act, to suspend payment in Specie, in case any action shall be depending or shall be hereafter brought in any Court in this Province, for the recovery of any debt, it shall be lawful for such Court, on the application of the Defendant, and on the hearing of the parties, to stay proceedings in such action, without costs, until further order shall be made thereon: *Provided*, it be made to appear to the satisfaction of the Court, that the necessity for proceeding in such action does not arise from the want of the amount of debt being ascertained, or from the unwillingness or inability of the Defendant to pay the same.

4. *And be it further enacted by the authority aforesaid*, That during the continuance of this Act, no action or suit shall be prosecuted against any of the Banks which shall avail itself of the provisions of this Act, in order to compel payment of any Notes of such Bank, expressed to be payable on demand; and it shall be lawful for the President and Directors of every such Bank, during the continuance of their suspension of Cash Payments, in the manner allowed by this Act, to apply to the Court wherein any such action shall be brought, or shall be depending, to stay proceedings therein in a summary way; and in case such action or suit shall be brought to compel payment of any Note or Notes made payable on demand, such Court shall stay all proceedings accordingly during the continuance of this Act, or during the suspension of Cash

Payments as provided by this Act: *Provided always*, that if it shall appear to such Court to be necessary for the purpose of ascertaining the amount of any demand on such Bank, or otherwise, for the furtherance of justice, that any proceedings should be had for such purpose, it shall be lawful for such Court to permit proceedings to be had in any such action or suit, for such necessary purpose only: *Provided also*, that no costs shall be recovered against any such Bank in any action or suit which shall be brought for the purpose of compelling payment of any debt or demand, unless the Court wherein the same shall be brought shall be of opinion that the same was necessary for the purpose of ascertaining the amount of such debt or demand, or the title thereto, or for the furtherance of justice as aforesaid.

5. *And be it further enacted by the authority aforesaid*, That during the continuance of this Act, any Incorporated Bank, or any one of the Banking Institutions in this Province excepted in an Act passed during the last Session of the Legislature, entitled, "An Act to protect the public against injury from private Banks," against whom any action shall be brought by reason that such Bank has failed to redeem its Notes, or other liabilities, in current Coin, shall be sued in His Majesty's Court of King's Bench, or in any District Court in this Province, and no other.

6. *And be it further enacted by the authority aforesaid*, That so long as any Bank shall continue, under the provisions of this Act, to conduct their business of Banking without paying their Notes in Specie on demand, their total amount of paper in circulation shall never exceed their Capital Stock actually paid up.

7. *And be it further enacted by the authority aforesaid*, That during the time of such suspension of Cash payments, it shall not be lawful for any Chartered Bank which shall suspend Cash payments, to make sale of any proportion of the Gold or Silver which may be in their possession, or make any other disposition thereof which would diminish the amount according to its legal value, than by paying in change the fractional parts of a Dollar, or by paying on demand the amount of such of their Notes for One Dollar each as may be presented to them for payment; and that the amount of Notes of Five Shillings each which such Banks shall keep in circulation, shall not generally bear a less proportion to its total issues than five per cent.

8. *And be it further enacted by the authority aforesaid*, That if any person shall knowingly swear falsely in any matter stated by him on oath, under the provisions of this Act, he shall, on conviction, be deemed guilty of wilful and corrupt perjury.

9. *And be it further enacted by the authority aforesaid*, That this Act shall take effect immediately, and shall continue in force until the end of the next ensuing Session of Parliament, and no longer.

10. *And be it further enacted by the authority aforesaid*, That the Legislature shall have power to repeal, alter or amend this Act at any time.

*AN ACT to continue the expiring Laws to the end of the next Session of Parliament.*

[Passed 11th July, 1837.]

**WHEREAS** several of the Acts of the Legislature of this Province, will expire during, or at the close of this Session: *And whereas*, it is necessary to continue such Acts until the close of the next ensuing Session of the Provincial Parliament: *Be it therefore enacted*, by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and

Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That all Acts of the Provincial Legislature, expiring during, or at the close of the present Session of the Legislature, be and the same are hereby revived and continued to the end of the next ensuing Session of Parliament.

*AN ACT to facilitate the negotiation of Loans of Money required for the completion of the Macadamized Roads, and for other purposes therein mentioned.*

[Passed 11th July, 1837.]

**WHEREAS** it might facilitate the negotiation of Loans of Money required for the completion of the Macadamized Roads authorised to be undertaken in this Province, if the Debentures upon which such loans are to be raised were made payable for a less sum than by Law they can now be issued, and were made payable in the City of London: *Be it therefore enacted*, by the King's most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's reign, entitled, 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That it shall and may be lawful for the Lieutenant Governor, by and with the advice of the Executive Council of the Province, to authorise the issuing of Debentures to the amount that may be required for the purpose of making the several Macadamized Roads authorised by Acts of the Legislature, passed in the last Session, in sums not less than Fifty Pounds, Sterling each, and bearing an interest of six per cent. payable in this Province, or of five per cent. payable in London, redeemable at the expiration of twenty years.

2. *And whereas* it is expedient to authorise the raising in like manner of such portion of the monies granted during the last Session for completing the Welland Canal, as may be necessary for maintaining the same in sufficient repair, and for discharging the debts due on account of the said work: *Be it therefore enacted by the authority aforesaid*, That the Lieutenant Governor of this Province, by and with the advice of the Executive Council, may authorise the issuing Debentures to such amount as may be necessary for those purposes, within the present year, in sums not less than Fifty Pounds, Sterling each, and bearing interest at six per cent. payable in this Province, or five per cent. payable in London, and redeemable at the expiration of twenty years.

3. *And be it further enacted by the authority aforesaid*, That the Debentures authorised to be issued under this Act, shall be chargeable on the funds and securities mentioned in the respective Acts authorising the appropriation of monies to the purposes aforesaid.