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No. 84.

2nd Session, 7th Parliament, 26 Victoria, 1863

BILL.

An Act to establish a Landed Credit Institution (*Crédit Foncier*) in Lower Canada.

Received and Read first time, Friday, 27th
February, 1863.

Second Reading, Monday, 2nd March, 1863.

Mr. Jos. UPPRESNE.

QUEBEC.

PRINTED FOR THE CONTRACTORS BY
HUNTER, ROSE & LEMIREUX, ST. URSULE ST.

An Act to establish a Landed Credit Institution (*Crédit Foncier*)
in Lower Canada.

WHEREAS it is desirable to establish a monetary institution the security of which shall be based upon real property, with the view of affording help and assistance to the agricultural classes, by granting them loans proportioned to their requirements, and securing them a safe investment for their savings; Therefore, Her Majesty, &c., enacts as follows:

Preamble.

1. A landed credit company shall be established in the manner hereinafter prescribed, of owners of real property, who shall submit their property to the provisions of this Act with the view of obtaining loans and of enjoying the advantages conferred upon them by this Act; the said Society shall be called the _____ and shall be a Corporation, and as such shall, while this Act remains in force, have continued succession and a common seal, with power to break, alter and renew the same at pleasure, and may plead and be impleaded in all Courts of Law and Equity in all actions, suits or matters whatsoever.

Formation of Society.

Corporate name.

2. Any owner of real property whose property shall be valued at _____ dollars, may become a member of the Society.

Members.

3. The amount of the loan contracted from the Society shall never exceed one half of the value of the property hypothecated, as fixed at the valuation.

Amount of Loan.

4. If the value so estimated appear to the Society to be too high, so as to compromise its interests, or if such valuation appear too low, then the Society may cause another valuation to be made by *experts*, in the form and manner prescribed by its by-laws.

Valuation regulated.

5. Every member shall be bound to pay six per cent. annually on account of his loan.

Interest at six per cent.

6. The Society may issue notes in such form as it may think proper under its collective name.

The Society may issue notes.

7. The hypothecs of the said Society shall be in executory form.

Hypothec.

8. The notes and letters of credit issued by the Society shall be signed by the President, Vice President or Cashier, or by any one of them: The notes issued by them containing a promise to pay any sum of money to any person or to his order, or to bearer, although the seal of the Society shall not be affixed thereto, shall bind it in the same manner and as securely as they would bind any individual who might have issued them in his individual capacity, they shall be transferable without any formality, and redeemable at their place of issue.

Notes, their form and effect.

To be legal
tender.

9. The notes of the Society shall be received as a legal tender.

(circulation of
notes limited.)

10. It shall not be lawful for the Society to put into circulation an amount of its notes exceeding its capital; and the values of the properties hypothecated to the society by its members, over and above all other hypothecary debts, after valuation shall have been made in conformity with the provisions of this Act, shall be deemed the capital of the Society. 5

Capital.

11. The capital of the Society shall not be less than two millions of dollars, nor more than

Letters of
Credit.

12. The Society may issue letters of credit to depositors upon the money deposited by them, and may make agreements as to the time at which such deposits shall be repaid, and the interest thereon, which in no case shall exceed six per cent.: The said letters of credit shall bear the seal of the Company, and shall be transferable by endorsement.

Loans for
more than
one year.

13. The Society shall lend upon a sufficient hypothecation only, when the time for repayment exceeds one year: Provided always, that the amount which it shall be lawful for the said Society so to lend on hypothec, for any term exceeding one year, shall not exceed one fourth of its capital.

Loans for pe-
riods less
than a year.

14. The Society may, however, make advances to such persons as it may think proper, on their promises in writing, provided that the term of payment do not exceed twelve months, and in such case the members of the Board of Direction making the said advances shall be personally responsible for the repayment, unless they have been specially exempted, either wholly or partially, at a public meeting of the members of the Society, held at the time of the election of the members of the General Direction, by the vote of the majority of the members present at the said election. The Society may retain the interest on any of their loans at the time of making the same. 20 25

Loans at long
dates.

15. The Society may lend upon long terms by obliging the borrower to repay the amount lent either by annual payments besides the interest, or in any other manner. 30

Society may
purchase prop-
erty mort-
gaged to it.

16. The Society shall have power to cause to be sold, to bid on' and also to purchase the property hypothecated to it, but it shall be bound to re-sell the said property within the period of twelve months after such purchase, excepting such part thereof as they may require for their own proper use and occupation. 35

Withdrawal
of Members.

17. Any member of the Society shall be entitled to withdraw therefrom at any time, upon repayment of the amount of capital and interest due by him. He may also at any time free himself from a part of his debt. 40

Admission of
Members.

18. Any proprietor intending to become a member of the Society, shall do so by notarial deed, in which he shall declare that he submits himself to the rules of the Society, and shall specify the property which he desires to engage as security for the loan which he proposes to effect. This deed shall be registered. 45

Documents
annexed to
such deed.

19. The proprietor who shall thus have become a member of the Society shall cause to be annexed to the deed which he shall so have caused to be enregistered, to the profit of the Society,

1st. A certificate of the hypothec registered against the property so specified in the deed above mentioned.

2nd. The certificate of two *experts* made under oath (which oath any Justice of the Peace is authorised to administer) setting forth the value of the property.

3rd. His title to the property—if such title be derived from disposition by will, then an extract from the register of deaths, setting forth the death of the testator, shall be annexed thereto. The said documents shall be transmitted to the President of the Society?

10 20. Upon the receipt of any *acts* of admission to the Society, the person appointed to that duty by the committee of management shall make an examination thereof. If any formalities have been neglected, or the *acts* be not correct, it shall be sent back to the person who shall have sent it in, accompanied by such remarks as may be required to enable the candidate to correct it to meet the views of the Society.

Examination
of deed of
Membership.

15 21. The Society shall be deemed formed as soon as not less than persons shall have subscribed a deed in the form of Schedule A. hereunto annexed. And the members of the said Society who shall have subscribed the said deed, or the majority of them, shall proceed to elect not less than fifteen Directors. The said Directors shall elect among themselves the officers to form the Committee of Management.

When Society
shall be
deemed
formed.

22. The Committee of Management shall be composed of a President, a Vice-President, a Cashier, and Directors. The said officers shall remain in office one year, or until they are replaced by others. They shall be eligible for re-election.

Managing
Committee of
management.

25 23. The Society shall have its principal office at Montreal, and there shall have its Committee of Management and general direction.

Principal Of-
fice.

24. The election which shall take place hereafter for the appointment of Directors, shall be held in the following manner: The President of the Committee of Management shall call a general meeting of the members of the Society, not residing within the limits of any of its branches, by a notice published for at least three weeks in two newspapers or more, in the city of Montreal, of the object, place, day and hour of the said meeting, at which meeting the Chairman of the said Board of Management shall preside, or in his absence, the Vice-President or Cashier, or in their absence any member present chosen by the meeting for the purpose. The members of the Society then present shall elect Directors, not less than eight of whom shall be Directors then in office. The Directors so elected with such Directors of the branch directions as shall be then present, shall proceed to the election of the Committee of Management. One half at least of the members of the Committee of Management shall have been members of the Committee for the preceding year. The same shall take place every year. The person presiding at the said election shall only vote in case of an equality of the votes. He shall lay the accounts of the Society before the said meeting, exhibiting on one side the liabilities of the Society, and on the other side its assets, the amount of its transactions during the past year, the profits and losses, if any there be, the amount which it would be expedient to add to the reserve fund, before payment of the dividend for the preceding and present year, and all such other information as would be required to exhibit a just statement of the affairs of the Society,

Elections,
proceedings
at.

Rules, By-laws, &c.

25. The Committee of Management shall make rules, by-laws and regulations for the government of the Society, provided that they are not contrary to law, nor to the provisions of this Act. They may alter or repeal them from time to time, and make others in their stead. The said rules, by-laws and regulations shall be obligatory as regards all the branches of the Society, until such time as they shall be disapproved of at a general meeting of the members of the Society. 5

Members aggrieved by such by-laws.

26. If any member deems himself aggrieved by any of the by-laws, rules or regulations made by the Committee of Management, he shall be entitled to appeal therefrom at a general meeting of the Members. The decision of the majority shall be final. 10

Amount to be held before commencing business.

27. The Society shall not issue any note, bill of exchange, or letter of credit, nor make any loan, or transact any business within its powers as a monetary institution before being in possession of a sum of four hundred thousand dollars in gold or silver currency, of this Province. 15

Notice to be given

28. So soon as the Society shall be formed, public notice thereof shall be given it at least four newspapers, published in Montreal, two in the English and two in the French language, for two consecutive months, calling upon all proprietors of real property who may be desirous of becoming members of the Society, to present and transmit their deeds of membership in the Society, in accordance with the eighteenth section of this Act, and the other documents required by the nineteenth section of this Act. And these persons only who shall have executed deeds of membership to the Society, within the delay aforesaid, shall be members of the said Society. Those who may execute deeds of membership after the said period shall be considered as belonging to the Society, in the quality of borrowers only and not as members. 20 25

Register of Members.

29. According as the deeds of membership shall be transmitted to the Society, the officer appointed by the Committee of Management for that purpose shall enter them in a register, with the name and surname of the party, his occupation and place of residence, the estimated value and location of the property, the amount for which it is hypothecated, the amount which the applicant wishes to obtain from the Society, and for which he has hypothecated his property to the Society, setting forth the difference between the estimated value of the property and the total amount of hypothecs with which it is charged. 30 35

Meeting to be called in certain cases.

30. As soon as it shall appear from the entries made in the register of the Society, under the preceding section, that the property hypothecated to the Society is of the value of millions of dollars, or more, over and above all hypothecary debts, the President shall call a meeting of the Officers and Managing Directors of the Society. 40

Minutes of such Meeting to be prepared.

31. Minutes of the said Meeting shall be drawn up, setting forth the place and date thereof, and stating the names and additions of the Officers and Managing Directors present, who shall give a statement of the amount so hypothecated to the Society, and shall authorise the President to sign bonds in the name of the Society, in favor of the Province for an amount to be determined by them, which shall not exceed the one half of the amount hypothecated to the Society by its members, in the form required by section eighteen of this Act. 45 50

Form of Bonds.

32. The bonds of the Society so signed by the President shall be in executory form.

- 33.** The President of the Society or his deputy shall hand the said bonds to the Receiver General of the Province, whose duty it shall be, on receipt thereof, to give in exchange an equal amount in Provincial Debentures. Exchange thereof for debentures.
- 5 **34.** The said Provincial Debentures shall be made payable in Eng- land, in sterling; and on the same terms of payment as the bonds of the Society. Payable in England.
- 35.** The Society shall be empowered to negotiate at a rate not below par, such an amount of the said Provincial Debentures as they may deem expedient to furnish the necessary funds for carrying on the business of the Society. Negotiation thereof.
- 10 **36.** The bonds of the Society shall bear interest at the rate of six per centum per annum. And the Society shall pay the said interest yearly at the Office of the Receiver General of the Province. Interest.
- 15 **37.** In order to provide for the gradual redemption of the Provincial Debentures, the Society shall pay to the Receiver General one per cent every year on the total amount of the said Debentures, in addition to the interest at six per cent. Sinking fund.
- 38.** The Society may, if it be deemed expedient, require that the money loaned to any of its members be applied to pay off the hypo- thecs charged on any property offered as security, in order that the Society may hold the first lien. Right as to application of money loans.
- 20 **39.** The payment of all notes, letters of credit, bonds and other engagements of the Society shall be secured by the whole property of the Society, consisting of all the lands hypothecated. Each property hypothecated shall be liable for the debts of the Society, only to the amount for which it is hypothecated to the Society and no more. Security for liabilities.
- 25 **40.** In order that all the Members may share in the cost of issuing the notes, letters of credit and bonds of the Society, the Committee of Management may charge a percentage on each hypothecary loan, which shall in no case exceed per centum. Expenses divided.
- 30 **41.** Properties hypothecated to the Society and entered separately in the register of hypothecs, though belonging to one and the same proprietor, shall not be jointly liable for the payments to be made; neither shall such liability extend to any other property of such proprietor not hypothecated to the Society. Liabilities of mortgaged property limited.
- 35 **42.** No liability shall attach to any other property of the same proprietor, unless it shall have been proved that such proprietor has, through his own fault, allowed the property hypothecated to depreciate in value either by the destruction of timber, the removal of buildings or fences, or in any other way whatever. In what cases other property shall be liable.
- 40 **43.** Any person who shall acquire any property hypothecated to the Society by one of its Members, shall by the fact of so doing become a Member of the Society. For the same reason any Member who shall dispose of any such property shall cease to belong to the Society in far as the property is concerned. Membership attached to ownership of property hypothecated.
- 45 **44.** The salaries of the Officers of the Society shall be defrayed from its revenues, and shall be fixed by by-laws. Salaries of officers.

- Government of Members.** **45.** The Members of the Society in each Judicial District shall be subject to the direction of the Directors of their branch of the Society. Parties considering themselves aggrieved by such decisions may appeal to the General Board of Directors. Complaints against the general directory shall be referred to the Committee of Management. 5
- Appointment of officers, &c.** **46.** The Committee of Management shall be empowered to suspend and to discharge the Officers of the Society or any of them; to replace them by others in case of suspension, dismissal, death, or for any other reason whatever, when they shall think proper, and as often as they shall deem it expedient for the interest of the Society. The General Board of Directors may suspend the proceedings of any of the branches whenever they think proper so to do. 10
- Responsibility of officers.** **47.** The Officers shall be responsible for any loss incurred by the Society through them, and shall be liable to actions at law in respect thereof. 15
- Organization of Agencies.** **48.** The Committee of Management shall draw up a scheme for the organization of a certain number of branches as soon as the number of members joining the Society in any county or judicial district shall be at the least , and the amount hypothecated by them shall be at the least ; the said scheme shall specify the places where the Boards shall meet, and the limits within which they shall have control; it shall also give the form of oath to be taken by the members of the General Board of Directors, as well as that for the President and Directors of the branches; the President of the General Board shall submit the said project accompanied with a detailed report for the approbation of the Government. 25
- Duty of Government as regards Branches.** **49.** The Government may direct by an order in Council the formation of a certain number of local branches and shall appoint Presidents for the first meeting from amongst the members. The Government shall fix a day for the election, and shall authorise the Presidents to call together the members of each Board in order to proceed to the election of officers to serve in each of the said branches, and shall transmit to the Presidents the form of oath to be taken by them and by the members of the branches; and shall communicate the said Order in Council to the President of the general direction, together with the form of oath for the members of the said direction. 30 35
- As to deeds of Membership.** **50.** In conformity with the eighteenth and nineteenth sections of this Act, the deeds of membership shall be transmitted to the President of the Committee of Management, who shall cause them to be entered as provided in the twenty-eight section of this Act, and shall transmit them to the particular branch within the limits of which the properties so hypothecated to the Society may be situated. 40
- Directors for Branches.** **51.** The persons present at such meeting in any county or district shall appoint from among those present seven members for the Branch Direction and two for the general direction. These officers shall be chosen from among the owners of real property who join the Society, and whose debts do not exceed the one-half of the value of their property. 45
- Their transmission.** **52.** When the branches shall have been organized, all deeds of membership made in accordance with the eighteenth and nineteenth sections of this Act, shall be directly transmitted to the branches within the limits of which the different properties may be situated. 50

- 53.** The President of the Committee of Management shall exercise a diligent superintendence over all the business of the Society, not only at the office of the general direction, but at the offices of the branches; He shall be empowered to require at any time the production of the money of the Society, deposited in any of its vaults or coffers; as well as of all books, deeds of membership, hypothecs, notes, letters of credit or of any other matter or thing which he may require, in order to ascertain the true state of the affairs of the Society, and whether its operations are carried on with safety and regularity. In the absence of the President, the Vice-President, or Cashier shall exercise the same power.
- 54.** Any member of the Society may be expelled at a meeting called for the purpose, provided three-fourths at least of the members present shall vote for such expulsion: The party intended to be expelled shall be notified at least fifteen days in advance as to the object of such meeting, and required to be present thereat.
- 55.** In case of the death, retirement, or expulsion of a member of the Committee of Management, or of a Branch Committee, the remaining members of such Committee shall appoint a person to fill the vacancy by a vote of the majority of such members.
- 56.** The society shall keep regular accounts of its affairs; A condensed statement of its liabilities and assets shall be furnished every month to the Receiver General of the Province, in accordance with the Schedule B, to this Act annexed.
- 57.** The profits of the Society shall be applied as follows, viz :
 1st. To pay the expenses of administration and management.
 2nd. To pay the interest on the Provincial Debentures.
 3 d. To pay the Provincial tax on notes in circulation.
 4th. One per cent. as a sinking fund.
 5th. Five per cent. on the balance of profits to the support of the superior schools.
 6th. Five per cent. on the same to the support of charitable institutions.
 7th The remaining balance shall be divided amongst the members of the Society in proportion to the amount invested by each of them.
- 58.** The Committee of Management shall appoint a Board of Audit to examine the accounts of the Society. Before any dividend shall be paid, the auditors shall make a semi-annual report as to the state of the accounts and books of the Society, under oath if required. A copy of the Report shall be sent to the Receiver General of the Province. The said report shall be accessible to all members of the General Board at any time during business hours of the Society.
- 59.** The Society may require any of its officers, clerks or servants to give security in an amount proportioned to the importance of their trust, and the amount of salary.
- 60.** The Society shall not be empowered to issue notes of the nominal value of less than one dollar, and shall not issue notes of a less value than four dollars each, to a greater amount than one third of the capital.
- 61.** The Society shall not cease to exist by reason of any informality occurring in the holding of any meeting or in the election of any officer, but such informality may be rectified at a subsequent meeting or election.

Duties of President.

Expulsion of members.

Vacancies.

Accounts.

Application of profits.

Auditors.

Security.

Amount of notes.

Existence of Society not affected by informality.

- Loans to foreign powers.** **62.** The Society shall not, under pain of forfeiting this charter, make a loan to any foreign prince or state.
- Suspension, the effect of.** **63.** A suspension of specie payments of its notes, during sixty days, whether consecutive or at intervals within a period of twelve months, shall operate a dissolution of the said Society, and a forfeiture of the rights and privileges of this charter. **5**
- Theft or concealment by officers &c., to be felony.** **64.** Any functionary, officer, clerk, servant, or employé of the Society, who shall conceal, purloin, or steal any bond, note, letter of credit, or other security, or any moneys entrusted to him in his capacity as such, whether the same be the property of the Society or the property of any other person, body corporate, or institution deposited with the Society, shall be guilty of felony. **10**
- Limitation of this Act.** **65.** This Act shall remain in force until the First Day of June, which shall be in the Year of our Lord one thousand nine hundred and fifty-seven, and from that time until the end of the next Session of the Parliament of this Province, and no longer. **15**
- Interpretation.** **66.** The plural number shall be substituted for the singular when required in giving effect to this Act, and the feminine for the masculine gender.
- Public Act.** **67.** This Act shall be deemed a Public Act. **20**

SCHEDULE A.

(Mentioned in the twenty-first section of this Act.)

We (state here the names of the parties, their additions, and place of residence respectively) declare ourselves associated together as the Lower Canada Landed Credit Company, authorised and incorporated under the 26 Vic. chap. (state the chapter of this Act.) We further declare that the collective value of our real property exceeds the sum of five hundred thousand dollars, and we bind ourselves to comply in all things with the provisions of the Act above cited.

Done at Montreal, this _____ day of _____ in the year of Our Lord one thousand eight hundred and sixty.

Signatures

A. B.
C. D.
E. F.

SCHEDULE B.

(Referred to in the Fifty-sixth Session of this Act.)

Average Statement of the Liabilities and Assets of the Lower Canada Landed Credit Institution, for the period between the First day of _____ and the First day of _____, One Thousand Eight Hundred and _____

LIABILITIES.

Promissory Notes in Circulation not bearing Interest... \$
Bills of Exchange in Circulation not bearing Interest... \$
Notes in Circulation bearing Interest. \$
Letters of Credit not in Circulation bearing Interest... \$

Balance due to Banks.....	§
Deposits not bearing Interest.....	§
Total average Liabilities.....	§

ASSETS.

Specie.....	§
Landed and other Property of the Society.....	§
Government Debentures.....	§
Notes of Banks.....	§
Hypothecs due to the Society.....	§
Notes and Drafts discounted, and other Assets of the Society not included under the above heads.....	§
Total Average Assets.....	§