

TWO ACTS

PASSED BY BOTH HOUSES OF THE LEGISLATURE.

IN THE FOURTH SESSION OF THE SEVENTH

PROVINCIAL PARLIAMENT,

*WHICH BEING RESERVED FOR THE SIGNIFICATION OF HIS MAJESTY'S
PLEASURE THEREON, HAVE SINCE RECEIVED THE ROYAL ASSENT.*

SIR PEREGRINE MAITLAND, K. C. B. LIEUTENANT GOVERNOR.

ANNO DOMINI 1819.



CHAP. XXIV.

An Act to incorporate sundry Persons under the style and title of The PRESIDENT, DIRECTORS and COMPANY of the BANK of UPPER CANADA.

[The Royal Assent to this Act was promulgated by Proclamation, bearing date April twenty first, in the year of Our Lord one thousand eight hundred and twenty one, and second of His Majesty's Reign.]

WHEREAS the establishment of a Bank in the Province of Upper Canada, will conduce to the prosperity and advantage of Commerce and Agriculture in the said Province, and whereas William Allan Robert Charles Horne; John Scarlett, Francis Jackson, William Warren Baldwin, Alexander Legge; Thomas Ridout, Samuel Ridout, D'Arcy Boulton, junior, William B. Robinson, James Macaulay, Duncan Cameron, Guy C. Wood, Robert Anderson, John Baldwin and others by their Petition presented to the Legislature, have prayed for the privilege of being Incorporated; Be it 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 William Allan, Robert Charles Horne, John Scarlett, Francis Jackson, William Warren Baldwin, Alexander Legge, Thomas Ridout, Samuel Ridout, D'Arcy Boulton, junior, William B. Robinson, James Macaulay, Duncan Cameron, Guy C.

Preamble;

Petition of certain Persons to be incorporated.

Wood, Robert Anderson, John Baldwin, and all such Persons as hereafter shall become Stock-holders of the said Bank, shall be and hereby are ordained constituted and declared to be from time to time and until the first day of June which will be in the year of our Lord one thousand eight hundred and forty-eight, a Body Corporate and Politic, in fact and in name of the President Directors and Company of the Bank of Upper Canada, and that by that name, they and their successors, shall and may have continual succession, and shall be persons in Law capable of suing and being sued, pleading and being impleaded, answering and being answered unto, defending and being defended in all Courts and places whatsoever, in all manner of actions, suits, complaints, matters and causes whatsoever, and that they and their successors may have a Common Seal and may change and alter the same at their pleasure; and also that they and their successors by the same name of the President Directors and Company of the Bank of Upper-Canada shall be in Law capable of purchasing holding and conveying any Estate real or personal for the use of the said Corporation.

Incorporation of a Bank under the name of the Bank of Upper Canada.

Amount of each Share.

Number of Shares.

Books of Subscription here and when to be opened.

II. *And be it further enacted by the authority aforesaid,* That a Share in the Stock of the said Bank, shall be twelve pounds ten shillings or the equivalent thereof in specie; and the number of Shares shall not exceed sixteen thousand, and that Books of Subscription shall be opened at the same time in the Towns of Kingston, Niagara, York, Brockville, Amherstburgh, Ancaster, Vittoria, Hamilton in the District of Newcastle, and Cornwall in the Eastern District, within two months after the passing of this Act, by such person or persons, and under such regulations as the majority of the said Petitioners shall direct.

The Government authorised to subscribe 2000 shares.

III. *And be it further enacted by the authority aforesaid,* That it shall and may be lawful for the Governor, Lieutenant Governor, or Person administering the Government of this Province for the time being, to subscribe and hold in the Capital Stock of the said Bank, for and on behalf of this Province, any number of Shares therein not exceeding two thousand, the amount whereof the said Governor, Lieutenant Governor or Person administering the Government of this Province for the time being is hereby authorised, by a Warrant or Warrants under his hand and seal directed to the Receiver General of this Province for the time being, to take out of the unappropriated monies which now remain or hereafter may remain in the hands of the said Receiver General for the future disposition of the Parliament of this Province.

No person to take in the first instance more than 80 shares.

IV. *And be it further enacted by the authority aforesaid,* That it shall be lawful for any person, His Majesty's Subjects or Foreigners, to subscribe for such and so many Shares, as he she or they may think fit, not however exceeding in the first instance eighty; and that the Shares respectively subscribed shall be payable in Gold or Silver, that is to say ten per centum, to be ready as a deposit at the time of subscribing, to be called for by the Directors hereafter appointed by virtue of this Act, as soon as they may deem expedient, and the remainder shall be payable in such Instalments as a majority of the Stock-holders at a meeting to be expressly convened for that purpose, shall agree upon: provided no Instalment

Ten per cent. may be required as an immediate deposit. Remainder payable by instalments.

shall exceed ten per centum upon the Capital Stock, or be called for or become payable in less than Sixty Days after public notice shall have been given in the Upper Canada Gazette and Kingston Chronicle to that effect, *Provided always*, That if any Stock-holder or Stock-holders as aforesaid, shall refuse or neglect to pay to the said Directors the Instalment due upon any Share or Shares held by him her or them, at the time required by Law so to do, such Stock-holder or Stock-holders as aforesaid shall forfeit such Shares as aforesaid with the amount previously paid thereon, and the said Share or Shares may be sold by the said Directors, and the sum arising therefrom together with the amount previously paid thereon, shall be accounted for and divided in like manner as other monies of the Bank.

Notice of calling in instalments.

Forfeiture in case subscription not paid when required.

V. *Provided also, and it is further enacted by the authority aforesaid*, That if the whole number of Shares shall not be subscribed within two months after the said Books of Subscription shall be opened, then and in such case it shall be lawful for any former Subscriber or Subscribers to increase his her or their subscriptions, and *provided further*, That if the total amount of subscriptions within the period aforesaid shall exceed the Capital Stock limited by this Act, then and in such case the Shares of each Subscriber or Subscribers above ten Shares, shall as nearly as may be, be proportionably reduced until that the total number of Shares be brought down to the limits above said, and *provided nevertheless*, That the said limitation in respect to persons subscribing to the said Capital Stock, shall not extend or be construed to extend to prevent the acquisition of a greater number of Shares by purchase after the said Bank shall have commenced its operations.

How shares may be made up.

Shares may be acquired to any amount by purchase after Bank is in operation.

VI. *And be it further enacted by the authority aforesaid*, That the whole amount of the Stock Estate and Property which the said Corporation shall be authorised to hold including the Capital Stock or Shares before mentioned shall never exceed in value Two Hundred Thousand Pounds.

Stock not to exceed £200,000.

VII. *And be it further enacted by the authority aforesaid*, That as soon as the sum of fifty thousand pounds shall have been subscribed, it shall and may be lawful for such Subscribers or the majority of them to call a meeting at some place to be named at the Seat of the Government of this Province, for the purpose of proceeding to the election of the number of Directors herein after mentioned, and such Election shall then and there be made by a majority of Shares voted in manner herein after prescribed in respect of the annual elections of Directors, and the persons then and there chosen shall be the first Directors, and be capable of serving until the expiration of the first Monday in June in the year of our Lord one thousand eight hundred and twenty-one: and the Directors so chosen shall as soon as the deposit amounting to twenty thousand pounds subscribed as aforesaid shall be paid to the said Directors, commence the business and operations of the said Bank, *Provided always*, That no such meeting of the said Subscribers shall take place until a notice is published in all the public Newspapers of this Province, at the distance of not less than thirty days from the time of such notification.

Directors when to be elected.

In what manner.

When the Bank shall be opened.

Notice of meeting of Subscribers.

VIII. *And be it further enacted by the authority aforesaid*, That the Stock, property, affairs and concerns of the said Corporation, shall be managed and conducted by fifteen Directors, one of whom to be the President, who

Directors.

President.

Qualifications of Directors.

Election of Directors.

Vacancies how to be supplied.

Directors to have at least twenty shares.

Corporation not to be dissolved by non-election of Directors on the proper day.

excepting as is herein before provided for, shall hold their offices for one year; which Directors shall be Stock-holders, and shall be Subjects of His Majesty residing in this Province, and be elected on the first Monday in June in every year, at such time of the day, and at such place at the Seat of Government, as a majority of the Directors for the time being shall appoint, and public notice shall be given by the said Directors in the different Newspapers printed within the Province of such time and place, not more than sixty nor less than thirty days previous to the time of holding the said Election, and the said Election shall be held and made by such of the said Stock-holders of the said Bank as shall attend for that purpose in their own proper persons or by proxy; and all Elections for Directors shall be by ballot, and the fifteen persons who shall have the greatest number of votes at any Election shall be the Directors except as is hereinafter directed; and if it should happen at any Election that two or more persons have an equal number of votes in such manner that a greater number of persons than fifteen shall by plurality of votes appear to be chosen as Directors, then the said Stock-holders herein before authorised to hold such Election, shall proceed to ballot a second time, and by plurality of votes determine which of the said persons so having an equal number of votes shall be the Director or Directors so as to complete the whole number of fifteen; and the said Directors so soon as may be after the said Election, shall proceed in like manner to elect by ballot one of their number to be their President; and four of the Directors which shall be chosen at any year excepting the President shall be ineligible to the office of Director for one year after the expiration of the time for which they shall be chosen Directors; and in case a greater number than ten of the Directors, exclusive of the President who served for the last year, shall appear to be elected, then the election of such person or persons above the said number and who shall have the fewest votes shall be considered void, and such other of the Stock-holders, as shall be eligible, and shall have the next greatest number of votes, shall be considered as elected in the room of such last described person or persons, and who are hereby declared ineligible as aforesaid, and the President for the time being shall always be eligible to the office of Director, but Stock-holders not residing within the Province shall be ineligible, and if any Director shall move out of the said Province his office shall be considered as vacant; and if any vacancy or vacancies, should at any time happen among the Directors by death resignation or removal from the said Province, such vacancy or vacancies shall be filled for the remainder of the year in which they may happen, by a special Election for that purpose, to be held in the same manner as is herein before directed respecting annual Elections, at such time and place at the Seat of Government as as the remainder of the Directors or the major part of them shall appoint. *Provided always,* That no person shall be eligible to be a Director who shall not be a Stockholder to the amount of at least twenty Shares.

XI. *And be it further enacted by the authority aforesaid,* That in case it should at any time happen, that an Election of Directors should not be made on any day when pursuant to this Act it ought to have been made, the said Corporation shall not for that cause be deemed to be dissolved, but

that it shall and may be lawful on any other day to hold and make an Election of Directors in such manner as shall have been regulated by the Laws and Ordinances of the said Corporation.

X. *And be it further enacted by the authority aforesaid,* That each Stockholder shall be entitled to a number of votes proportioned to the number of Shares which he or she shall have held in his or her own name at least three months prior to the time of voting according to the following ratios, that is to say, at the rate of one vote for each Share not exceeding four, five votes for six Shares, six votes for eight Shares, seven votes for ten Shares, and one vote for every five Shares above ten, Stockholders actually resident within the Province of Upper Canada and none others may vote in Election by proxy. *Provided always,* That no person, co-partnership, or body politic shall be entitled to more than fifteen votes at any such Election.

Who are to vote.

XI. *And be it further enacted by the authority aforesaid,* That it shall be the duty of the Directors to make half yearly dividends of so much of the profits of the said Bank, as to them or the majority of them shall appear advisable, and that once in every three years and oftener if thereunto required by a majority of the votes of the Stockholders to be given agreeable to the ratios herein before established, at a general meeting to be called for that purpose, an exact and particular statement of the debts which shall have remained unpaid, after the expiration of the original credit, for a period of treble the term of that credit, and of the surplus of profits if any after deducting losses and dividends.

Half yearly dividends of profits to be made.

Accounts to be rendered of debts, losses; &c.

XII. *And be it further enacted by the authority aforesaid,* That the Directors for the time being or a major part of them shall have power to make and subscribe such rules and regulations as to them shall appear needful and proper touching the management and disposition of the Stock property estate and effects of the said Corporation, and touching the duties and conduct of the Officers, Clerks, and Servants employed therein; and all such other matters as appertain to the business of a Bank; and shall also have power to appoint as many Officers, Clerks and Servants, for carrying on the said Business, and with such salaries and allowances as to them shall seem meet, provided that such rules and regulations be not repugnant to the Laws of this Province.

Directors may make rules,

appoint and pay clerks and servants.

XIII. *And be it further enacted by the authority aforesaid,* That the total amount of the debts which the said Corporation shall at any time owe, whether by bond, bill, note or other contract, over and above the monies then actually deposited in the Bank, shall not exceed three times the sum of the Capital Stock subscribed, and actually paid into the Bank, and in case of such excess, the Directors under whose administration it shall happen shall be liable for the same in their natural and private capacities: but this shall not be construed to exempt the said Corporation or any estate real or personal which they may hold as a Body Corporate, from being also liable for and chargeable with the said excess; but such of the said Directors who may have been absent when the said excess was contracted or who may have dissented from the said resolution or act whereby the same was so contracted may respectively exonerate themselves from being

Debts never to exceed three times the amount of monies actually paid into the Bank.

In case of excess, Directors in whose time it shall happen shall be personally liable.

Exceptions.

so liable, by giving immediate notice of the fact and of their absence or dissent, to the Stockholders at a general meeting which they shall have power to call for that purpose.

The Bank to issue no bill under five shillings.

XIV. *And be it further enacted by the authority aforesaid,* That it shall not be lawful for the said Corporation to issue any note or bill under the value of five shillings of lawful money of the Province of Upper Canada.

To hold no lands, except as herein mentioned.

XV. *And be it further enacted by the authority aforesaid,* That the land tenements and hereditaments which it shall be lawful for the said Corporation to hold, shall be only such as shall be requisite for its immediate accommodation in relation to the convenient transacting of its business, or such as shall have been bona fide mortgaged to it, by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon Judgments, which shall have been obtained for such debts, and further the said Corporation shall not directly or indirectly deal or trade in buying or selling any goods wares or merchandise or commodities whatsoever. *Provided* That nothing herein contained shall any wise be construed to hinder the said Corporation from dealing in Bonds, Bills of Exchange, or Promissory Notes, or in buying or selling Bullion, Gold or Silver.

Not to deal in merchandise.

Exception.

Shares may be transferred

XVI. *And be it further enacted by the authority aforesaid,* That the Shares of the said Capital Stock shall be transferrable, and may be from time to time transferred by the respective persons so subscribing the same: *Provided always,* That such transfer be entered or registered in a book or books to be kept for that purpose by the Directors.

Bills obligatory and of credit under seal of the Bank made assignable.

XVII. *And be it further enacted by the authority aforesaid,* That the Bills obligatory and of credit under the seal of said Corporation which shall be made to any person or persons shall be assignable by indorsement thereupon, under the hand or hands of such person or persons and of his her or their assignee or assignees, and so as absolutely to transfer and vest the property thereof in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon in his her or their own name or names, and bills or notes which may be issued by order of the said Corporation signed by the President, and countersigned by the Principal Cashier or Treasurer, promising the payment of money to any person or persons his her or their order, or to bearer, though not under the Seal of the said Corporation, shall be binding and obligatory upon the same in like manner and with the like force and effect as upon any private person or persons if issued by him her or them in his her or their private or natural capacity or capacities, and shall be assignable or negociable in like manner as if they were so issued by such private person or persons.

Bills or Notes negotiable.

Cashier and Clerk to give security.

XVIII. *And be it further enacted by the authority aforesaid,* That every Cashier and Clerk before he enters into the duties of his office shall give bond with two or more sureties in such sum as may be satisfactory to the Directors. with condition for the faithful discharge of his duty.

No greater interest than six per cent.

XIX. *And be it further enacted by the authority aforesaid,* That the said Corporation shall not demand any greater interest on any loan or discount than at the rate of six per centum per annum.

XX. *And be it further enacted by the authority aforesaid,* That the Directors excepting the President shall not be entitled to any emolument for their services, and that seven Directors shall constitute a Board for the transaction of business, of whom the President shall be one except in the case of sickness or absence, in which case the Directors present may choose a Chairman for the said meeting.

Directors to have no emolument, except the President.

Seven to form a board.

XXI. *And be it further enacted by the authority aforesaid,* That the said Bank shall be established and the buildings necessary for the accommodation thereof erected, purchased or leased, and he business thereof at all times hereafter transacted at such place at the Seat of the Government of this Province, as the Directors or the majority of them may appoint: *provided always* as soon as it may be deemed expedient, Branches of the said Bank and Offices of Deposit and Discount may be authorised by the said Directors or the majority of them in any other part of the said Province, under such rules and regulations as the said Directors or the major part of them may think proper, not repugnant to the general rules of the said Corporation.

Bank to be established at the seat of Government of this Province.

Branch Banks may be authorized by the Directors.

XXII. *And be it further enacted by the authority aforesaid,* That if at any time after the passing of this Act, the said President Directors and Company should refuse on demand being made at their Banking house, or any Branch or Branches hereafter to be established, during the regular hours of doing business to redeem in specie or other lawful money of this Province their said bills notes or other evidences of Debt issued by the said Company, the said President Directors and Company shall on pain of forfeiture of their Charter wholly discontinue and close their said Banking operations either by way of discount or otherwise until such time as the President Directors and Company shall resume the redemption of their bills notes or other evidences of Debt in specie or other lawful money of this Province.

When Bank refuses payment of their Bills, its proceedings shall be closed till payment is resumed.

XXIII. *And be it further enacted by the authority aforesaid,* That it shall and may be the duty of the President and Cashier of the said Bank for the time being to make a return under oath to the Provincial Parliament, once in each year if required either by the Legislative Council or House of Assembly, which return shall contain a full and true account of the funds and property of the said Bank, the amount of its Capital Stock subscribed and paid, the amount of the debts due to and from the said Bank, the amount of the bills and notes emitted by the said Bank in circulation, and the amount of specie in the said Bank at the time of making such return.

Annual returns if required to be made to the Legislature by the President and Cashier

XXIV. *And be it further enacted by the authority aforesaid,* That this Act be and is hereby declared to be a Public Act, and that the same may be construed as such in His Majesty's Courts in this Province.

This Act to be deemed a Public Act.

XXV. *And be it further enacted by the authority aforesaid,* That this present Act of Incorporation shall in no wise be forfeited by any non user at any time before the first day of January one thousand eight hundred and twenty two.

Non user before 1st Jan. 1822 not to occasion forfeiture of charter.

CHAP. XXV.

An Act to prevent the abatement of any Action against a Joint Obligor, Contractor, or Partner, on account of the other joint parties not being made Defendants.

[The Royal Assent to this Act was promulgated by Proclamation bearing date April twenty first, in the year of Our Lord one thousand eight hundred and twenty one, and second of His Majesty's Reign.]

Preamble.

WHEREAS by Law the several Defendants named in any Civil Suit or Action, must be personally served with Process, and whereas by Law if any Joint Obligor Contractor or Partner be sued in any Action without naming the other Joint Obligors Contractors or Partners, the Defendant may plead the same in abatement of such Action, to the great delay of Justice in such cases where one or more Joint Obligors Contractors or Partners reside out of the Jurisdiction of the Courts of this Province and cannot be served with Process, for remedy whereof. 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 in any Action to be brought in this Province against any Joint Obligor Contractor or Partner, the Action shall not abate for or on account of any Joint Obligor Contractor or Partner not being made Defendant; unless the party pleading such matter in abatement shall shew to the Court that such Joint Obligor Contractor or Partner is living within the Jurisdiction of the Court so to be served with its Process conformably to Law.

No action to abate by reason that any one or more of several joint contrary are not made Defendants unless the party pleading in abatement shall shew that the joint contractor not named is within the jurisdiction of the Court.

Joint obligation, contract or promise may be given in evidence against any one or more of the joint contractors, partners, &c. as if it were a sole obligation.

II. And be it further enacted by the authority aforesaid, That the joint obligation contract or promise may be given in evidence against any one or more of the Joint Obligors Contractors or Partners, and have the same force and effect as to any Judgment or Execution thereon as if the same was the sole obligation contract or promise of the Defendant, any Law usage or custom to the contrary notwithstanding.

No execution to issue upon a judgment against one of several joint obligors until the joint bond, contract, &c. be filed in Court.

III. And be it further enacted by the authority aforesaid, That for satisfaction of any Judgment against one or more of several Joint Obligors Contractors or Partners, no Execution shall issue until the bond, obligation or other written evidence on which Judgment shall be had be first filed with the Record of the said Judgment.