

No. 87.

2nd Session, 1st Parliament, 32 Victoria, 1869:

BILL.

An Act to amend the Act incorporating the Royal Canadian Bank, by extending if necessary the time for resumption of specie payment, and also to authorize if necessary the amalgamation of the said Bank with any other bank or banks and for other purposes.

PRIVATE BILL.

MR. R. A. HARRISON,

OTTAWA :

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An Act to amend the Act incorporating the Royal Canadian Bank, by extending if necessary the time for resumption of specie payment, and also to authorize if necessary the amalgamation of the said Bank with any other bank or banks and for other purposes.

WHEREAS under and pursuant to the provisions of the Act of Preamble. Parliament of the late Province of Canada, passed in the session held in the twenty-seventh and twenty-eighth years of Her Majesty's Reign, chapter eighty-four, the Royal Canadian Bank was 5 incorporated and has been since carrying on its business of bankers. And whereas the said Royal Canadian Bank has by its petition represented that it is at present unable to meet in specie upon demand the amount of its bank notes in circulation, claims of depositors and other debts, although possessed of assets more than sufficient to pay all its liabilities, 10 in full, if such assets are properly realized and applied and hath prayed that under the circumstances an Act of Parliament of Canada should be passed containing the provisions hereinafter mentioned. And whereas it is expedient to grant the prayer of the said petition. Therefore Her Majesty, by and with the advice and consent of the Senate 15 and House of Commons of Canada, enacts as follows:

1. Notwithstanding any thing contained in the twenty-fifth section of the said recited Act, the suspension by the said bank of payment on demand in specie of the notes or bills of the said bank, shall not operate as or be any forfeiture of the charter or corporate privileges of the said 20 bank, unless such suspension shall continue for the period of ninety days from and after the passing of this Act. Extension of period during which suspension may continue.

CLAUSES AS TO AMALGAMATION.

2. The directors of the said bank may enter into an agreement with any other banking institution or institutions for an amalgamation, and may determine upon the terms of such amalgamation, and the 25 relative values of the stock of the said bank, and of such amalgamating bank or banks and may agree upon such other terms for the conduct, management and general relations of the amalgamated institutions as the directors of the said banks may think best, not, however, being inconsistent with or in excess of the powers conferred by their respective Acts of incorporation; such agreement shall not however be valid 30 until confirmed by a majority of such of the shareholders of the Royal Canadian Bank as shall be present either in person or by proxy at any special general meeting of shareholders called for that purpose. Certain powers to Directors with respect to amalgamation.

3. The directors of any other banking institution or institutions are 35 hereby authorized to enter into an agreement of amalgamation with the Royal Canadian Bank to the purport and effect set forth in the last preceding section, but such agreement shall not be valid until confirmed at a special general meeting called for the purpose of the shareholders of the bank or banks so entering into the said agreement. Powers to Directors of other Banks.

4. The terms of the said agreement of amalgamation shall be set forth in a formal indenture of union, executed by the said respective banks parties thereto, and upon the filing of a duplicate thereof in the office of the Secretary of State for Canada such amalgamation shall be taken to be fully complete and the said amalgamated banks shall thereafter be deemed to be one corporation under such name, not being the name of any other bank not entering into such amalgamation, as may be declared in such indenture, and shall possess all the corporate powers, rights and privileges theretofore held, enjoyed or possessed by any or either of the said respective banks, and the provisions contained in their respective Acts of incorporation, shall apply to the said amalgamated bank which shall in all respects be subject to and be regulated by the said provisions except in so far as the same may be varied by the terms of the said indenture of union or this Act, and in case of any conflict between the terms of the provisions contained in the said respective Acts of incorporation, those contained in the said recited Act of incorporation of the Royal Canadian Bank shall be construed, taken and held to govern the said amalgamated bank; and immediately after the filing of the said indenture in the office of the said Secretary of State, a copy of the same certified by the said Secretary shall be published at length in the *Canada Gazette*, at the expense of the said bank.

What shall be deemed evidence of amalgamation.

5. The production of the said indenture of union with the certificate thereon endorsed of the Secretary of state for Canada, of the filing of the duplicate thereof, in his office, or the production of a copy of such duplicate indenture certified by the said Secretary of State or of a copy of the *Canada Gazette* in which the said indenture has been published, under the last preceding section shall be conclusive evidence, in all courts and proceedings, of the execution and filing of the said indenture, without further or other proof, and shall also be *prima facie* evidence, without further proof, in all courts and proceedings, of the complete union and incorporation into one corporation of the said amalgamated institutions.

Amalgamated Bank may increase its capital stock.

6. The said amalgamated bank may, by by-law or by-laws, and upon the terms set forth in such by-law or by-laws, from time to time increase their capital stock, but the additions thereto shall not exceed the amount of the original capital stock of the Royal Canadian Bank and of such amalgamating bank or banks, as authorized by their respective Acts of incorporation. But no such by-law shall be valid until confirmed by a majority of such of the shareholders as shall be present in person or by proxy at a special general meeting of the shareholders of the amalgamated bank called for that purpose.

Head office.

7. The indenture of union, hereinbefore mentioned, may provide for the place where the head or principal office of the amalgamated bank shall be situate, and may also contain provisions for the removal of such principal office from time to time.

Effect of amalgamation on shareholders.

8. Immediately upon the union or amalgamation of the said bank taking place, the shareholders of the respective banks so amalgamating shall (*ipso facto*) become the shareholders of the said amalgamated bank in the amounts and according to the relative values of the stocks of the amalgamated banks, as provided for and set forth in the said indenture of union.

Scale of Votes.

2. And notwithstanding any thing to the contrary contained in the several Acts of incorporation relating to the said banks, each share in the capital stock of the said united corporation, shall entitle the holder thereof to one vote at all general meetings of the shareholders of the

said bank, unless he shall be in default, in respect of any calls upon such share ;

3. And thereupon also all the estate and effects, real and personal rights, property, credits, choses in action, claims and demands of whatsoever nature or quality, or wherever situate of each of the amalgamating banks shall forthwith become vested in the said amalgamated corporation, its successors and assigns, as for its own use and benefit absolutely, and it may in its own name, sue for, collect and get in, any, or any part of the said estate, rights or effects ;

Property, &c.,
of amalga-
mating
Banks.

4. And the said amalgamated corporation shall forthwith also become subject and liable to pay and discharge all of the debts obligations, bills, promissory notes or other liabilities of each of the said amalgamated banks, and may be directly sued and proceeded against in respect thereof, as fully and effectually as if the same were originally, and they shall be taken and construed so to be the debts, obligations, promissory notes and liabilities of the said amalgamated corporation ;

Debts and
liabilities.

9. The amalgamation taking effect as hereinbefore provided shall in no way release, affect or discharge the liability or obligation of any surety to any or either of the amalgamating banks, for or in respect of any bill, debt, claim, service, employment or matter, or thing whatsoever, but the said liability and obligation shall continue in full force and effect, and shall be taken and construed to be a liability or obligation in favour of the said amalgamated corporation, as if the same had been originally and directly given to or entered into with the said last mentioned corporation.

Liability of
Sureties.

CLAUSES AS TO WINDING UP.

10. In the event of the Royal Canadian Bank not being able to resume its business, or in case no such amalgamation takes place as hereinbefore provided, then it shall and may be lawful at any special general meeting of shareholders held within ninety days from the passing of this Act to provide for its winding up, and the liquidation of its liabilities by the execution, within the said period of ninety days, of a deed of assignment of all its estate and effects to three trustees to be named therein, such deed and assignment to be in the form of schedule A, to this Act, and the said trustees and their successors shall be deemed and taken to be a body corporate, and by the name of the "Trustees of the Royal Canadian Bank" may have, held, take, receive, grant alien, assign, transfer, release and convey all or any part of the said trust, estate and effects, and by the same name may bring or defend any action, suit or proceeding, and do, execute or perform any act, deed, matter or thing, which they may think necessary in the performance or execution of the trusts of the said assignment; but notwithstanding any such incorporation, in any action, suit or proceeding brought or prosecuted by the said trustees, they shall not possess any other or different or higher rights or remedies than the bank would have had, if suing in its own name.

Proceeding
for liquidation.

11. The trustees to be named in the said deed of assignment shall be nominated as follows: two thereof by the shareholders of the said bank at the meeting provided for in the last preceding section at which the winding up of the said bank is determined upon, and the third of the said trustees shall be appointed to represent the interests of the creditors of the said bank by the Court of Chancery or a Judge thereof and such appointment shall be made upon the summary application of the said bank to such court or judge, but notice of such application shall be given to the creditors of the said bank in such manner as the court or judge may direct; and the court or judge may direct in what

How trustees
shall be ap-
pointed.

manner the creditors by classes or otherwise may be represented upon such application: If however at the time of the meeting of the said shareholders at which such winding up is determined upon, the liabilities of the said bank shall have been reduced to within the sum of five hundred thousand dollars, then the said third trustee shall also be appointed at the aforesaid meeting of the said shareholders and the provision hereinbefore contained with respect to the appointment of such third trustee by the Court of Chancery or a judge thereof shall be and become inoperative. 5

What the Deed of Assignment shall be held to contain.

12. Such deed of assignment shall be construed to contain the 10 following special provisions.

1. The said trustees shall have power to carry on or continue so much of the operations of the bank as may be necessary for the beneficial winding up of the same;

2. To sell the real and personal, mixed and moveable property, effects and things in action of the bank by public or private contract, with power if they think fit, and upon the concurrence of a majority of the shareholders present in person or by proxy, at any special general meeting to be called for such purpose (and provided that by the terms of such sale, the payment in full of the claims of all of the creditors shall not be deferred beyond the period of six months thereafter), to sell and transfer all of the said estate and effects to any bank or banks upon such terms and conditions as may be agreed upon, and in such case the execution by the said trustees of a deed to the form and effect set forth in schedule B to this Act, shall be deemed and taken to vest in such purchasing bank all such estate and effects, and such deed shall and may be validly registered in any registry office with respect to lands by the production and filing of a duplicate thereof, with a memorandum or schedule thereunder or annexed thereto of the particular lands or real estate lying within the limits for which such office is the proper office for registry; 15 20 25 30

3. To execute on behalf of the bank and in their name as trustees all deeds, receipts and documents they may think necessary;

4. To refer disputes to arbitration and to compound claims, also to renew or extend time of payment of bills or debts payable to the bank; 35

5. To do or execute in the name of the bank or otherwise, all such other things as may be necessary for the winding up of the affairs of the bank and distributing its assets;

6. It shall be the duty of the trustees to deposit day by day all current moneys received by them in one or more of the incorporated or chartered banks, and no amount shall be withdrawn therefrom, except upon the cheque of at least two of the trustees. 40

7. The trustees may appoint such accountants, book-keepers and others as may be necessary to assist in the winding up of the trust estate and may pay them reasonable salaries and remuneration therefor; 45

8. The trustees shall make up a balance sheet and statement of the affairs of the trust at least once in every month until the estate is wound up, and such statement shall be published at least once in every month until the estate is wound up and such statement shall be published at least once on the expiration of each month in one of the daily newspapers published at the City of Toronto; 50

9. The trustees shall from time to time and at the earliest times possible declare and pay dividends to the creditors of the said bank rateably and in proportion to their respective claims, and shall upon demand in exchange for other vouchers, issue certificates bearing interest at the rate of six per cent per annum of the amount due to any creditor;

10. the trustees shall after payment in full of the claims of creditors pay, divide or apportion (as the case may be), any of the remaining assets of the said bank or residue of the trust estate unto and amongst the shareholders of the said bank, according to the amount of shares held by them respectively and any of such assets may be sold or valued and apportioned specifically;

11. The trustees shall meet at least once in every two weeks, and at any time any two of them upon six days' notice to the other may convene and hold any special meeting;

12. The trustees shall semi-annually on the first Wednesday in the month of May and November in each year, at a general meeting of the creditors and shareholders to be held at noon, at the principal office of the said bank submit a full statement of the affairs and position of the said trust estate;

13. Immediately upon the execution of the said deed of assignment, all legal proceedings of any kind pending against the said bank shall be stayed and all of the estate and effects of the said bank shall become vested in the said trustees and for the purposes mentioned in the said assignment and according to the provisions thereof, and it shall be unnecessary to file or register any copy of the said deed in any office for filing or registry with respect to real or personal property in Canada, but the said deed may at any time be validly registered in any registry office, with respect to lands by the production and filing of a duplicate thereof with a schedule or memorandum thereunder, or annexed thereto of the particular lands within the limits of such registry office.

Effect of execution of deed of assignment.

14. All deeds, bills, notes, cheques, certificates, vouchers or other documents necessary to be executed or given by the trustees shall be signed by at least two of the said trustees.

Deeds, &c., how executed.

15. The trustees shall be entitled to receive such remuneration in equal proportion and in such manner as the shareholders may from time to time determine upon.

Remuneration of trustees.

16. Whenever the claims of all of the creditors of the said bank shall have been paid in full, or reduced to less than the sum of one hundred thousand dollars, the trustee if any appointed as the representative of the creditors by the Court of Chancery or a judge thereof shall thereupon vacate his said office and the remaining trustees shall thereupon appoint a third trustee in his place, who shall remain and continue such trustee until the special general meeting of the shareholders of the said bank, which shall be convened by the said trustees, immediately after such appointment and at which a majority of the stockholders present in person or by proxy, may nominate and appoint such third trustee; And in case of any vacancy in the number of the trustees at any time arising by death, resignation or any cause, when such vacancy shall occur with respect to any trustee appointed by the shareholders of the said bank, the remaining or surviving trustee or trustees appointed by the said shareholders, shall thereupon appoint any competent person to fill such vacancy, until at a special or other general meeting of the shareholders of the said bank, a majority of the shareholders present in person or by proxy shall appoint the trustee to fill such vacancy and

So soon as claims of creditors are reduced to less than \$100,000.

when such vacancy shall occur with respect to the trustee appointed by the Court of Chancery or a Judge thereof as aforesaid, then it shall be the duty of the remaining or surviving trustees to apply to the said court or a judge thereof for the appointment of a competent person to fill such vacancy, and the procedure upon such application shall be similar to that hereinbefore prescribed with respect to the original appointment of the third trustee. 5

Proceedings
of creditors
in Court of
Chancery.

17. Any creditors over the sum of ten thousand dollars or any number of creditors whose claims jointly exceed the sum of ten thousand dollars, or any stockholder holding shares to the number of two hundred at least, or any number of stockholders holding shares to the number of two hundred, may from time to time apply in a summary manner, to the Court of Chancery, upon notice to the trustees in respect of any matter or thing connected with the management of the said trust, or with the disposition of the proceeds of the said trust estate or in respect of any matter or thing connected therewith, and obtain the order and direction of the court or judge thereupon, and such order may be enforced in the same manner as the decrees or orders of the said court, and any such order may amongst other things, require the said trustee to submit statements and accounts of the said trust estate and the management thereof, and may direct the removal of any one or more of the said trustees, and the appointment of new trustees and may generally be to the purport or effect which in the discretion of the said court or judge shall seem meet. 15 20

Trustees may
obtain direc-
tion of Court
of Chancery.

18. The trustees may from time to time apply to the Court of Chancery or a judge thereof, in Chambers, in a summary way, and obtain its direction on any matter connected with the management of the said trust, or the disposition of the said trust estate or in respect of any other matter or thing connected therewith, and such order shall be an effectual protection and authority to the said trustees against any personal liability or further responsibility. But, upon any application the said court or judge may require that one or more of the creditors and one or more of the shareholders, or one or more of either class shall be present on behalf of their respective interests. 25 30

Liability of
shareholders.

19. Nothing in this Act contained respecting the winding up of the said bank, shall in any wise affect or vary the liability of any shareholder in the said bank, to any present creditor thereof, or the rights or remedies of any such creditor. 35

Short title.

20. This Act may be cited and known as "The Royal Canadian Bank Act, 1869." 40

SCHEDULE A.

This indenture made between the Royal Canadian Bank, a corporation of the first part and

the trustees of the Royal Canadian Bank of the second part, witnesseth that under the provisions of the Act of the Parliament of Canada, passed &c., intituled &c. The Royal Canadian Bank doth grant, transfer and assign to the said trustees, their successors and assigns, all the Bank's estate and effects, real and personal, of every nature and kind whatsoever, and wherever situate;

To have and to hold the same according to the respective estates, natures and qualities thereof, unto the use of the said trustees, their successors and assigns, upon the trust and for the purposes, and with the powers and authorities mentioned in the said recited Act.

SCHEDULE B.

This indenture made this day of between
 the trustees of the Royal Canadian Bank

of the first part, and the Royal Canadian Bank of the second part, witnesseth, that under the provisions of the Act of the Parliament of Canada, passed &c., intituled &c., the parties of the first part do grant, transfer and assign, unto the party of the second part, its successors and assigns, all the estate and effects, real and personal, of every nature and kind whatsoever, and wherever situate, belonging to the trust estate of the Royal Canadian Bank. To have and to hold the same, unto, and to the use of the party of the second part, its successors and assigns forever.

The parties of the first part, covenant with the parties of the second part for further assurance.

C. A. P.