

No. 105.

3d Session, 3d Parliament, 13 & 14 Victoria, 1850.

BILL.

An Act to establish freedom of Banking
in this Province, and for other pur-
poses relative to Banks and Banking.

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HON. W. MERRITT.

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BILL.

An Act to establish freedom of Banking in the Province, and for other purposes relative to Banks and Banking.

WHEREAS it is expedient to provide, by one general Preamble. law, for the establishment of freedom of Banking in this Province, under such regulations as shall effectively protect the holders of the Notes of Banks, and shall provide as far as may be practicable for the safety of all those dealing with them, and for that purpose to repeal the Ordinance and Act hereinafter mentioned, and to make other provision instead thereof: Be it therefore enacted, &c.

- 10 That the Ordinance of the Governor and Special Council for Lower Canada, passed in the second year of Her Majesty's Reign, and intituled, "*An Ordinance to regulate Private Banking, and the Circulation of Notes of Private Bankers,*" and the Act of the Parliament of Upper Ord : L. C. 2 v. (3) c. 57.
- 15 Canada passed in the seventh year of the Reign of His late Majesty King William the Fourth, and intituled, "*An Act to protect the public against injury from Private Banks,*" and all other Acts, Ordinances or provisions of law in force either in Upper or in Lower Canada, in- Act U. C. 7 W. 4 c. 13 repealed.
- 20 consistent with the provisions of this Act, shall be and are hereby repealed, except only as regards any penalty incurred under either of them before this Act shall come into effect, with regard to which they shall remain in full force.
- 25 II. And be it enacted, That it shall not be lawful for any person or association of persons, body corporate or politic, or party whatsoever, except only Banks now incorporated by Royal Charter or by Act of the Legislature of this Province or of Lower Canada or of Upper Cana- What parties only may make and issue Bank-notes.
- 30 da and thereunto expressly authorized, or such as shall be thereunto authorized under the provisions of this Act, to make, issue, sign, draw, indorse, guarantee, or become parties to (any of which acts shall be making and issuing within the meaning of this Act,) any Bill, Note, *bon*, check, or
- g5 promise in writing or undertaking, for the payment of money or securities for money, or other evidence of debt of any description or form, in the nature of a Bank Note or Bank Bill or intended to pass as money, (and such intention shall be presumed in any case, if the What shall be Bank-notes.
- 40 same be made for the payment of any sum less than

five pounds, and be payable either in form or in fact to the bearer thereof or on demand, or at less than thirty days thereafter, or be overdue, or be in any way calculated or intended for circulation, or as a substitute for money,)— all which shall be “*Bank Notes*” within the meaning of this Act, and those with regard to which the provisions of this Act shall be contravened, shall be “*unlawful Bank Notes*,” within the meaning of this Act, and the word “*Notes*” when hereinafter used, shall mean Bank Notes, unless such meaning be inconsistent with the context: Provided that any check upon any chartered or other Bank which may legally issue Bank Notes, paid by the maker thereof directly to his immediate creditor, shall not be deemed a Bank Note, if it be not intended to pass or circulate as such.

Proviso.

No Bank-note to be for less than 5s.

III. And be it enacted, That every Bank Note issued in this Province, and being for a less sum than five shillings, or made payable otherwise than on demand in current coin of this Province, and at some certain place within this Province, shall be an unlawful Bank Note, although issued by a party authorized to issue Bank Notes.

Foreign Notes under 25s. prohibited.

IV. And be it enacted, That it shall not be lawful to circulate or pass, or to attempt to circulate or pass, or to loan or pay as a substitute for money, any Bank Note issued in any country or place out of Her Majesty’s dominions, and being for a less sum than twenty-five shillings or an amount of foreign money equal to that sum; and all and every such Bank Note shall be “*prohibited Bank Notes*” within the meaning of this Act.

Penalty for issuing or circulating, &c., unlawful or prohibited Bank Notes.

V. And be it enacted, That for each and every unlawful or prohibited Bank Note made or issued, circulated or passed, or attempted to be circulated or passed in contravention of this Act, the party issuing, circulating or passing, or attempting to circulate or pass the same, shall incur a penalty of _____, to be recovered with costs by action in any Court having civil jurisdiction to the amount, by any party who will sue for the same as well for himself as for the Queen; and one moiety of such penalty shall belong to the party suing, and the other half to Her Majesty.

Freign Banks not to keep offices in the Province.

VI. And be it enacted, That no Bank incorporated or having its chief office or seat in any country out of Her Majesty’s dominions, shall open or keep any office or place of discount or deposit, or for the issue, circulation or redemption of its Bank Notes within this Province, under a penalty of _____ pounds for each day on which such office or place shall be opened or kept open, to be recovered and applied in the same manner as the penalties imposed by the next preceding Section.

VII. And be it enacted, That all unlawful Bank Notes shall be absolutely null and void; and any mortgage, hypothec, deed, bond, note, bill or other security, promise or undertaking, which shall be taken or given either directly or indirectly, mediately or immediately, for securing any loan or advance made either wholly or in part in unlawful or prohibited Bank Notes, shall be absolutely null and void, as shall also any receipt or discharge given for any sum of money if the whole or any part of such sum shall have been paid in unlawful or prohibited Bank Notes.

Unlawful
Bank Notes to
be void, &c.

VIII. And be it enacted, That the business of Banking shall, for the purposes of this Act, mean the making and issuing of Bank Notes, the dealing in gold and silver bullion and exchange, discounting of Promissory Notes, bills and negotiable securities, and such other trade as belongs legitimately to the business of Banking, and also the raising or lending of money upon mortgage, hypothec or pledge of any property whatever, real or personal; and any Company or party who may lawfully exercise the business of Banking under this Act, shall also have power to purchase, take and hold any property which shall have been *bona fide* mortgaged, hypothecated or pledged to such Company or party in the course of their lawful dealings as aforesaid, and sold under any writ, order or process of any Court of Law or Equity, and bought at such sale by the Company or party, and to re-sell or otherwise alienate or dispose of the same; but except as aforesaid, no such Company or party shall deal in the buying, selling or bartering of goods, wares or merchandize, or engage or be engaged in any trade whatever; and the word "Bank" in the Act shall mean and include any Company or party carrying on the business of Banking under this Act, unless such meaning be inconsistent with the context.

What the
business of
Banking shall
be within the
meaning of
this Act.

Word "Bank"
defined.

IX. And be it enacted, That any individual or co-partnership of individuals may carry on the business of Banking in this Province at some one place being a City or incorporated Town or Village therein, provided the requirements of this Act be complied with, but not otherwise; such co-partnership being general and the individual partners being jointly and severally liable as such, and bound by the Laws of this Province then in force touching co-partnerships: and any such individual or co-partnership shall be included by the expression "individual Banker" whenever it occurs in this Act.

Individuals
or general
partnerships
may establish
Banks.

X. And be it enacted, That for and notwithstanding any Law to the contrary, any parties may form an Association *en commandite* in Lower Canada for the purpose of carrying on the business of Banking, provided they shall before commencing such business, make and severally sign a notarial instrument which shall contain,

Associations
en commandite
may be form-
ed for Bank-
ing.
Conditions.

1. The name under which the Bank is to be conducted:
2. The place at which its business is to be conducted, which shall be some one City or incorporated Town or Village in Lower Canada, and no more:
3. The names of all the general partners (*associés gérans*), and of all the special partners (*commanditaires*) distinguishing which are general and which are special partners, and their usual places of residence, and the amount for which each special partner shall have contributed or bound himself to contribute, and a declaration that the general and special partners so named, are the only partners or parties interested in the association.
4. The period at which the Association is to commence and terminate:
5. The other articles of agreement or special conditions on which the Association is formed.

Of which instrument an authentic copy shall be fyled in the office of the Prothonotary of the Superior Court for the District, and in the Registry Office of the County in which the place of business of the Association shall lie, and shall be kept in the said offices and there recorded and registered at length; but if such instrument be not so made and fyled, the Association shall be deemed a general partnership and the partners shall be jointly and severally liable accordingly.

Limited partnerships may be formed for Banking under 12 V. C. 75. Conditions.

X. And be it enacted, That for and notwithstanding any thing in the Act passed in the twelfth year of Her Majesty's Reign and intituled "*An Act to authorize limited Partnerships in Upper Canada,*" limited partnerships may be formed under the said Act, (and any Act which may be passed in the present session amending the same, in so far as it shall not be inconsistent with this Act) for the purpose of carrying on the business of Banking, provided the certificate mentioned in the fourth section of the said Act shall, in addition to the particulars thereby required in other cases, contain also the name of the place at which the business of the partnership is to be conducted, (which shall be some one City or incorporated Town or Village in Upper Canada,) and no more.

Joint Stock Companies may be formed for Banking.

XI. And be it enacted, That it shall also be lawful for any number of persons, not less than *five*, to associate themselves together as a Joint Stock Bank, to be conducted at some one place, and no more, in Upper Canada, or at some one place, and no more, in Lower Canada, such place being, in either case, some City or incorporated Town or Village; and when such persons shall have executed articles of agreement in notarial form,

if such place be in Lower Canada, and in duplicate under their hands and seals if the same be in Upper Canada, and shewing, in either case,

The name under which the Bank is to be conducted, 5 which shall be the corporate name of the Company :

The place at which the Bank is to be conducted as aforesaid :

The whole capital stock of the Company, which shall not be less than *twenty-five thousand pounds*.

10 The number of shares into which it is divided, which shall not be so great as to make each share less than *twenty-five pounds* :

The name and residence of every Shareholder, and the number of shares held by him :

15 The period at which the Company is to commence and terminate :

And containing such other provision and clauses as may be agreed upon, with regard to the management of the 20 Directors, Cashier or other Manager and Officers, their powers and their terms of office, the transfer of shares, the division of the profits, the calling in of instalments on the stock, the increasing of the stock by the admission of new Shareholders or otherwise, the making of By-laws and the 25 purposes for which they may be made and the penalties they may impose, the manner in which the affairs of the Company shall be settled, and its property disposed of and distributed when the Association shall terminate, and generally as to the management of the business of the 30 Company and the rights of the Shareholders as between themselves ; and when a duplicate or notarial copy (as the case may be) of such articles of agreement shall have been fyled, in Lower Canada in the office of the Prothonotary of the Superior Court for the District, and of the 35 Registry Office for the County in which the place of business of the Company shall be, or in Upper Canada in the office of the Clerk of the County Court for the County in which the place of business of the Company shall be, and shall have been recorded or registered at 40 length in such offices respectively, then the said articles of agreement and the By-laws to be lawfully made in pursuance thereof, shall be valid and binding upon all parties thereto, and upon those who shall (by transfer of shares or otherwise) thereafter become Shareholders, and upon 45 all others concerned, except only that so much of such articles or By-laws as shall be contrary to the laws of the Province, as modified by this Act, shall

Articles of agreement.

be void; and the said articles shall not thereafter be altered except only in such manner as shall be therein expressly provided, and no such alteration shall prejudice the rights of any creditor of the Company accrued before such alteration, nor shall any such alteration or any By-law made under such article be of any force unless nor until the same shall be made and fyled, registered or recorded, in the manner herein provided with regard to the articles themselves. 5

Company to be a body corporate.

XII. And be it enacted, That from and after the fying, 10 registering or recording of any such articles of agreement as aforesaid, the parties thereto shall be a body corporate by the name therein mentioned and taken by them, and shall have all such rights and powers as are by law vested in Corporations generally, and are not inconsistent with 15 the provisions of this Act, and also the power of carrying on the business of Banking and such other powers as are hereby vested in such Company and in parties authorized to carry on the business of Banking, but subject always to the provisions herein made: Provided always, that the 20 Shareholders in any such Company shall be liable for the debts of the Corporation to the amount of twice their respective shares and no more, that is to say, each Shareholder may, in case of the insolvency of the Company, be compelled to pay to the Receiver hereinafter mentioned, 25 not only the amount of any unpaid instalment on his shares, but also a sum equal to the amount of his shares, or such less sum as may be sufficient to enable the said Receiver to pay off all the liabilities of the Association, and such sum may be recovered by the Receiver either 30 from the actual holder of any share, or from any party who shall have held such share within years next before the appointment of such Receiver, saving the recourse of such prior Shareholder against those who may have held the same shares after him: Provided, that 35 the liability of the Shareholders may be made greater by the Articles of Agreement, but shall never be less than herein provided.

Proviso: liability of shareholders limited.

Proviso.

Banks may hold permanently lands &c. necessary to their business.

XIII. And be it enacted, that in addition to such real property as any Association *en commandite*, Limited Part- 40 nership or Joint Stock Bank may acquire under the provisions hereinbefore made, in the course of its dealings in the business of Banking, it may also purchase and permanently hold such other real estate as may be necessary for the convenient carrying on of its lawful business at the 45 place where the same is to be conducted, and may from time to time depart with the same and acquire other real property in its stead at the said place, so as the total value of such property do not at any time exceed the sum of 50 pounds.

Value limited.

XIV. And be it enacted, That any Association *en commandite*, Limited Partnership, or Joint Stock Company formed under this Act, which shall not within months from the fying of the instrument, certificate or articles aforesaid, become qualified to make and issue Bank Notes shall be *ipso facto* dissolved, saving the remedy of any of the parties concerned for breach of contract by any other of such parties.

Company &c.
dissolved if
not qualified
within a cer-
tain time.

XV. And be it enacted, That no individual Banker shall make or issue Bank Notes, and no Association *en commandite*, Limited Partnership, or Joint Stock Association shall commence the business of Banking, until they shall have respectively deposited in the hands of the Receiver General, for the purposes of this Act, Debentures or other securities issued by, or the payment of the principal and interest whereof, or of the interest only, is guaranteed by the Government of this Province, under the authority of the Legislature thereof, and bearing interest at the rate of six per centum per annum, to amounts not less than those hereinafter mentioned, that is to say :

Provincial
securities to
be deposited
before the
Bank shall
commence
business.
To what
amounts.

Any individual Banker, to an amount not less than *ten thousand pounds* :

Any Association *en commandite* or Limited Partnership, to the amount of not less than *fifteen thousand pounds* :

Any Joint Stock Association, to the amount of not less than *twenty-five thousand pounds* :

The value of the said Debentures or securities being reckoned at *par*, and the same being held by the Receiver General in pledge for the due redemption of the Bank Notes of the Bank by which they are deposited, and the interest thereon being paid over to such Bank as the same shall accrue, except as hereinafter provided.

Value of
securities to
be taken at
par, &c.

XVI. And be it enacted, That whenever any bank shall have so deposited the required amount of public securities, the Inspector-General shall, on the application of such Bank, cause bank notes to an amount not exceeding that so deposited, and for such sums respectively not less than five shillings, as the Bank shall require, to be struck upon paper to be selected by him and from plates to be furnished by and at the expense of the Bank, but to be approved and kept by him, and after such notes are numbered and registered and countersigned by him or the Officer or Clerk whom he shall authorize to perform that duty, he shall deliver the same to the Bank, and after being signed by the proper officer or officers of the Bank, they shall be and may be issued and circulated as its notes ; and so long as the Bank

Inspector-
General to
deliver regis-
tered notes
to an amount
equal to that
deposited :
which being
signed, &c.
shall become
notes of the
Bank.

Proviso.

shall pay such notes in specie on demand, they shall be receivable in payment of duties and of all sums due to the Provincial Government: Provided always, that all such bank notes shall be made payable to bearer on demand at the office of the Bank, and not elsewhere, and shall be marked on the face thereof as being secured by deposit of Provincial securities. 5

Securities may be deposited from time to time, and also withdrawn; on certain conditions.

XVII. And be it enacted, That it shall be lawful for any such Bank, from time to time to deposit, a further amount of such Debentures or Securities as aforesaid (so as the amount deposited at any one time shall not be less than £5,000, and so as the total amount deposited by any joint stock Association shall not exceed the capital thereof) and from time to time to withdraw the same from deposit, on the certificate of the Inspector-General that a like amount of the notes of such Bank hath been returned to him, so as the amount withdrawn at any one time shall not be less than £5,000, and so as the sum remaining deposited shall never be less than that required to be deposited before the Bank could commence the business of banking, unless when the Bank is to be closed as hereinafter provided: Provided always that the amount deposited or withdrawn at any one time, shall always be a certain number of hundreds of pounds. 10 15 20

Proviso.

As to Bank-notes returned to Inspector General.

XVIII. And be it enacted, That Bank notes returned to the Inspector General as herein provided shall be marked as cancelled in a conspicuous manner by the Bank returning the same, but shall not be so marked or mutilated as to prevent the identification thereof by the Inspector General, by whom they shall be kept during after which they shall be destroyed; nor shall any such Bank notes be re-issued by him, but if the Bank shall afterwards apply for more, those issued on such application shall be new notes: and new notes may be issued by him at any time in exchange for worn out and disfigured notes returned to him, the amount present- ed for exchange at any one time not being less than . 25 30 35

Proceedings if any Bank shall fail to pay its notes in specie.

Notice to Bank. Closing the Bank.

XIX. And be it enacted, That if any such bank note shall not be paid in specie on demand at the office of the proper Bank, it may be protested for non-payment, and a copy of the note and protest forwarded to the Inspector-General, who shall thereupon by letter to be delivered at the office of the Bank by some person who shall before a Justice of the Peace make affidavit of the delivery thereof, require the Bank to pay the same, and if it be not paid (with costs of protest and postage and interest, at the rate of per cent per annum, from the date of the protest,) within ten days after the delivering of such requisition, then the Inspector-General, unless he be satisfied that the Bank has a legal defence, shall close the Bank, by giving notice in the Government 40 45 50

"Gazette" that the same is closed, and that he will redeem its notes out of the funds in his hands so far as the same will suffice, and that a Receiver (naming him) has been appointed for settling the affairs of the Bank, in whom all its property and credits are vested, and to whom all moneys due to the Bank must thereafter be paid on pain of paying the same again to him, and that no contract, act or thing thereafter made or done by the Bank will be valid or binding upon it; and such Receiver shall be appointed by letter from the Secretary of the Province by command of the Governor, and by such appointment the money, property, effects, and securities, claims and credits of the bank shall be transferred to and vested in such Receiver, and shall be delivered over to him by the Bank, with all the books, papers, accounts, and documents relating to the business and affairs of the Bank, and he shall have full power and authority in the name of the Bank to receive, recover or enforce all moneys, property, rights, claims and demands, which the Bank might otherwise have received, recovered or enforced, and to bring or continue, complete, defend, compromise, discontinue, or otherwise deal with any suit, action or proceeding at law or in equity, as the Bank might have done, and shall be considered as being *ipso facto* substituted for the Bank; and any Banker or any Partner, Associate or Shareholder in the Bank, or any Director, Manager, Officer or Servant of such Banker or Bank, or other person who shall have been entrusted with the same, without having any legal title to or lien thereupon, who shall have any money, property, securities, books, accounts, papers, or documents of the Bank in his possession or under his controul, and shall not forthwith deliver the same to the said Receiver on demand, shall be held to have fraudulently embezzled the same, and shall be punishable accordingly, and the Receiver may recover possession of the same by any means by which any party may recover possession of his property fraudulently embezzled, and any other party who shall have possession thereof may be proceeded against for the recovery thereof in the usual course of Law: and it shall be the duty of the said Receiver to examine into and settle the affairs of the Bank, and to report thereon from time to time fully to the Inspector-General, who shall cause the public securities deposited as aforesaid by the Bank, to be sold at such time and in such manner as he shall think most to the advantage of the Creditors of the Bank, and no interest thereon shall be paid to the Bank after the closing thereof, and the Receiver-General shall deliver them to the purchasers on the order of the Inspector General, and the proceeds of the sale shall be applied with the other assets of the Bank, and by the Receiver appointed as aforesaid, first to the redemption of its bank notes, and then to the payment of the other liabilities thereof; and as soon as the said securities shall have been sold, the said Receiver shall give notice, if the

Receiver to be appointed, his powers in taking possession of the property of the Bank.

His duties in settling the affairs of the Bank. Securities to be sold. Holders of Bank notes to be first paid.

proceeds of the sale either alone or with other funds of the Bank in his hands shall be sufficient to redeem all the outstanding bank notes, that he is ready to redeem the same in full, or if such proceeds and funds be insufficient for that purpose, then that he is ready to pay as 5
 much in the pound on such Bank Notes as the funds in his hands will allow, and so from time to time until they be redeemed in full or the assets of the Bank are exhausted; and he shall give the holders of any Bank Notes paid in part, a certificate stating the facts and 10
 entitling them to receive as much more as the funds in his hands will admit, and no other creditor of the Bank shall on any account, or on any plea of privilege of any kind be paid any part of his claim until the holders of the Bank Notes shall have been paid in full, (with interest 15
 from the day the Bank was closed,) and if any Bank Notes known to be outstanding be not presented, the receiver shall reserve sufficient funds for the payment thereof.

Surplus after paying note holders to be distributed among the other Creditors.

XX. And be it enacted, That if there be any surplus 20
 after paying the holders of Bank notes, the same shall be distributed among the other creditors of the Bank who shall claim the same, according to their respective privileges and rights; and all claims upon the Bank may be fyled with the Receiver at any time within *one year* 25
 from the closing of the Bank with the evidences of such claims, or copies of such evidences, and all the particulars thereof; and the Receiver shall sell and dispose of to the best advantage all the property real and personal, and all securities and claims of the Bank which cannot be col- 30
 lected or realized in money within *one year* from the closing of the Bank, and shall have full power to convey the same to the purchasers; and he shall at some time not less than *six months* nor more than *one year*, after his appointment make out a schedule showing the assets which have 35
 come into his hands, the expenses incurred and the sums paid for the redemption of Bank notes, the sum remaining in his hands, and the unpaid liabilities of the Bank, so far as known to him, and showing also the manner and proportion in which, in his opinion, the said remaining 40
 sum ought to be distributed among the unsatisfied creditors of the Bank, according to their respective rights; and he shall fyle such schedule in the office of the Circuit or County Court of the Circuit or County in which the business of the Bank shall have been conducted, and shall 45
 apply to the Judge or to one of the Judges of the Court to appoint a day, (not being more than nor less than after such application) when the said statement will be taken into consideration; and notice of such day and of the purpose thereof shall be given by the 50
 Receiver in such two newspapers, at such intervals and during such time as the Judge shall appoint, and the said schedule shall lie open to the inspection of all parties

Disposal of Bank property, &c.

Schedule to be made by Receiver.

Schedule to be fyled for allowance by a County or Circuit Judge.

interested at the office of the said Court and at the Bank during office hours until the day so appointed; and until within clear days of the said day any party who shall before the date of the said schedule have fyled his claim with the Receiver, may fyle in the office of the said Court and serve upon the Receiver a notice of any objection he may have to make to the said statement or to any part thereof, stating clearly and succinctly in ordinary language, words and figures, the reasons of such objections and the evidence (if any) which he proposes to adduce in support thereof; and on the day so appointed or any day or days to which he may adjourn the matter, the said Judge or any other who may sit in the said Court shall in a summary manner hear the parties objecting and the Receiver, and determine upon the merits of the objections and confirm or amend the said schedule in such manner as he may deem most consistent with the rights of the parties respectively; and during the six clear juridical days next after the said schedule shall have been so confirmed or amended, any of the parties interested may, if the amount to which he is interested be sufficient, give the security required by law on appeals from the said Court and may then appeal from the decision of the Judge as to the whole or any item of the said schedule as confirmed and amended, to the Superior Court in Lower Canada, or to the Court of Queen's Bench or Common Pleas in Upper Canada, (as the case may be) in the manner by law provided with regard to appeals from other decisions of the Court appealed from, and the decision of the Court so appealed to shall be final, whatever be the amount in question; but pending such appeal the Receiver may pay to the parties mentioned in the said schedule respectively, so much of the sums therein allotted to them as cannot be affected by any such decision in appeal; and the costs or any portion thereof, may in the discretion of the Judge or Court, be awarded against any party or ordered to be paid by the Receiver out of any other moneys he may then or thereafter have in his hands, or deducted *pro rata* from the sums to be paid to the claimants or any of them, as justice and the circumstances of the case may require: and like proceedings shall be had and with like effect whenever the Receiver shall have further moneys in his hands requiring distribution; but no such schedule shall be fyled at a less interval than *three* months from the fying of that next preceding it, nor for the distribution of a less sum than £2,500, unless it be the final one.

Objections may be fyled.

Objections to be heard and determined upon.

Appeal given.

As to costs.

Proceedings repeated in certain cases.

XXI. And be it enacted, That it shall always be lawful for the Receiver, if he shall deem it beneficial to the interests of the creditors of the Bank, to invest any assets of the Bank which will probably remain for more than three months in his hands, in Provincial securities, so as to make interest thereon.

Receiver may invest monies.

Receiver to
obey instruc-
tions, give
security, &c.

XXII. And be it enacted, That every Receiver appointed under this Act shall obey such instructions as he shall receive from the Inspector General, touching the safe keeping and deposit in any Bank or Banks, or with any public officer, of any monies in his hands as Receiver, 5 until the same shall be required to be used for the purposes of this Act: And every such Receiver shall give security to Her Majesty for the due accounting for and payment of all moneys coming into his hands to all persons lawfully entitled to receive the same, in such sum, 10 manner and form as the Governor shall direct, and such security shall avail and may be enforced according to the tenor thereof: and the allowance to be made to him shall be fixed by the Governor in Council, but any permanent officer of the Government may be appointed a Receiver, 15 and the same person may act as such with regard to more than one Bank, and he may have assistants and clerks under him: and any such Receiver shall be removable by the Governor at pleasure, and his successor appointed in case of his death or removal, shall be substituted for 20 him in all his rights and powers, and may continue and complete any suit, proceeding or matter which the former Receiver shall have begun, and may demand from such former Receiver all the moneys, property and effects in his hands, and any Receiver or his personal representa- 25 tives failing to pay or deliver over to his successor or to any person lawfully entitled to receive the same, any such moneys, property or effects, shall be held to have embezzled the same, being the property of Her Majesty, and possession thereof may be recovered by his 30 successor and he or his representatives may be dealt with accordingly, without prejudice to any remedy of a civil nature by the Crown or any other party against him or his sureties.

Provision in
case of his
removal, &c.

Engagements
of officers of
Bank to termi-
nate at its
closing.

XXIII. And be it enacted, That the engagement and 35 salary of every clerk or officer of a Bank shall terminate on the closing thereof, but any of them may be employed by the Receiver with the consent of the Inspector General to assist him in his duty: and during after the closing of any Bank, the office of the Receiver shall 40 be kept in the office of the Bank, but after that time it may be kept in such other place as he may appoint with the approval of the Governor.

Non-satisfac-
tion of judg-
ments to be a
ground for
closing a Bank.

XXIV. And be it enacted, That any such Bank may be closed, a Receiver appointed and other proceedings had 45 as provided in the preceding sections, if any judgment against such Bank shall remain unsatisfied for more than *three months* after the rendering thereof, no appeal from such judgment being then pending; an authentic copy or exemplification of such judgment being sent to 50 the Inspector General by the party obtaining it or his agent, with an affidavit made before some Justice of the

Peace, that no appeal is pending, as aforesaid, and that the same or some certain part thereof remains unsatisfied, and notice being thereupon sent by the Inspector General to the Bank requiring the Bank to satisfy the same.

5 XXV. And be it enacted, That whenever either by the lapse of time or by the voluntary act of the individual Banker or by agreement among the partners, or associates, or Shareholders in accordance with their articles of agreement, it is intended that any Bank shall be closed, 10 then after ninth-tenths of all the Bank notes of such Bank shall have been redeemed and returned to the Inspector General, the Bank shall give public notice in such manner and during such time as the Inspector General shall appoint, that its Bank notes are called in and are to be 15 presented at the office of the Bank for payment on or before a day to be named in the notice and not being more than _____ nor less than _____ from the date thereof and that if not so presented they will after the said day cease to be secured by the deposit 20 of Provincial securities; and after the said day the Inspector General, upon the delivery to him of all that shall have been so presented, and upon security being given by recognizance to his satisfaction that all such of those then outstanding as shall within *two years* from the 25 giving of such security be presented for payment at some certain place to be named in the recognizance and being within the limits of the City, Town or Village where the business of the Bank was conducted, will be then and there redeemed in current money, may issue his certificate to the Receiver General for the delivery to the Bank 30 of the remaining one-tenth of the Provincial securities deposited in his hands; and the holder of any Bank note so presented as provided in such recognizance and not paid, may recover the amount thereof with interest from 35 the date of presentation and costs, from the cognizors by action on such recognizance.

Proceedings in case a Bank shall be voluntarily closed.

XXVI. And be it enacted, That every Bank formed under this Act shall, whether the partners, associates or Shareholders therein be or be not jointly and severally 40 liable, keep constantly and conspicuously exposed and accessible to the public in the office of the Bank a correct list of all the partners, associates or shareholders therein, with their places of residence, and if the liability of all or any of them be limited, such list shall also shew 45 the amount of the liability of each, and the Bank shall in such case also keep in its office open for public inspection copies of their articles of agreement and of the instrument fyled as herein before required, and every such Bank shall on the payment of the sum of *seven pence* 50 *half-penny* deliver to any person applying for the same a copy of such list and of such articles or instrument (if any

List of all the partners, &c. to be kept constantly exposed in the Bank.

Copies to be furnished.

there be) signed and certified as correct by some partner, associate, officer, or person thereunto authorized by the Bank and stated so to be; and any such copy shall on proof of the signature thereto be *prima facie* evidence that the signer was authorized as aforesaid, and of the truth of the contents; and for contravention of this section, on any day, the Bank contravening the same shall incur a penalty of _____ pounds, the repetition of the contravention on another day constituting a new offence entailing a like penalty. 5 10

Every Bank to keep an office of discount and deposit.

XXVII. And be it enacted, That the office of every Bank established under this Act, kept at the place where the business of the Bank is to be conducted, shall be *bonâ fide* an office of discount and deposit as well as the place for issuing and redeeming the notes of such Bank. 15

Shares in Joint Stock Banks to be personal property. How transferred.

XXVIII. And be it enacted, That the share in any Joint Stock Bank shall be personal property, and every transfer of any such share shall, as to Banks in Upper Canada, be made in duplicate, and one duplicate shall be deposited in the office of the Bank, and the other shall be fyled in the office of the County Court, and as to the Banks in Lower Canada, such transfers shall be made in triplicate, and one triplicate shall be deposited in the office of the Bank, one in the office of the Circuit Court, and one in the Registry Office of the County, and until they be so deposited and fyled such transfer shall not affect any third party: and such shares shall be liable to attachment, seizure and sale, under the provisions of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, "*An Act to provide for the Seizure and Sale of Shares in the Capital Stock of Incorporated Companies.*" 20 25 30

Total liabilities of Joint Stock Bank limited.

XXIX. And be it enacted, That the total liabilities of any Joint Stock Bank shall never exceed three times the amount of its capital under a penalty of _____ for each day such excess shall continue, and the Directors in office at the time such excess shall be incurred shall be jointly and severally liable in their private capacity for all liabilities of the Bank contracted while such excess shall continue, including the day on which it shall have been incurred: and any such excess shall always be sufficient ground for the Inspector General to cause the books of the Bank to be examined as aforesaid. 35 40

Dividends not to impair capital.

XXX. And be it enacted, That no dividend shall be made by any Joint Stock Bank whereby its capital shall be impaired, but out of its clear profits only, after allowing a reasonable sum for bad or doubtful claims. 45

Unclaimed dividends, &c.

XXXI. And be it enacted, That every Joint Stock Bank established under this Act, shall advertise any un-

claimed dividends or Stock of such Bank in such manner as the Inspector General shall from time to time direct. to be advertized.

XXXII. And for the better protection of the public in their dealings with Banks established under this Act, be it enacted, That each and every such Bank shall, on the day of each of the months of Statements to be sent in periodically by Banks under this Act.

and in each year, transmit to the Inspector General, in such form as that officer shall from time to time furnish for them to fill up, a full and clear statement of the assets and liabilities of the Bank on the day of the date thereof, shewing as clearly as the same can be shewn without mentioning individual names and accounts, the true state of the affairs of the Bank, and stating with reference to the sums due to the Bank, how the same are secured, what part thereof is due to the Bank by directors or general partners, or is secured by their being liable therefor by indorsement or in any other way, and what proportion thereof (if any) may be considered bad or doubtful; and such statement shall be attested by the oath, before some Justice of the Peace, of two persons, one being the Banker or one of the general partners, or the President, Vice-President or other functionary, for the time being, at the head of the Association, and the other the Cashier, Book-keeper or other chief officer of the Bank for the time being, having charge of the books, papers, money of the Bank, and the ministerial management of its business; each of whom shall swear distinctly that he has such quality or office as aforesaid, that he has had the means of verifying and has verified the statement aforesaid, and found it to be exact and true in every particular, that the property of the Bank has been set down at its true value to the best of his knowledge and belief, and that the allowance made for bad and doubtful claims is, as he verily believes, ample and fair; and such statement shall be published by the Inspector General in such manner as he shall think most conducive to the public good; and for any neglect to transmit such statement in due course of post, within . . . , after the day to which it is to be made up, the Bank shall incur a penalty of *per diem*, and if the same be not transmitted within Attestation of such statements.

after the said day, or if it shall appear by the statement that the Bank is insolvent, the Inspector General may close the Bank, and proceedings shall then be had in all respects as when a Bank is closed for other causes: and if the Inspector General shall in any case suspect any such statement to be wilfully false, he may depute some competent person to examine the books and enquire into the affairs of the Bank, and to report to him on oath, and if by such report it shall appear that such statement was wilfully false or that the Bank is insolvent, or if the person so deputed shall report on oath that he has been refused such access to the Books or such information as would Statements may be published.

Inspector General may cause Books of Bank to be inspected in certain cases.

enable him to make a sufficient report, the Inspector General may close the Bank, and proceedings shall be thereupon had as aforesaid : but if the report be satisfactory, the information obtained by the person so deputed as to the particular account of any party with the Bank, shall not be divulged : but in any of the cases in which discretionary power is given to the Inspector General to close a Bank, he may before so doing give notice to the Bank, and afford the same an opportunity of making any explanation it may be advised to make.

How expenses of carrying this Act into effect shall be paid.

XXXIII. And be it enacted, That all the expenses of carrying this act into effect shall be borne by the Banks to be established under it; and such part of the said expenses as shall be directly incurred for or on account of any particular Bank shall be paid by it, and the remainder shall be yearly apportioned upon the several Banks in proportion to amount of Bank Notes issued to each: and the share of such expenses payable by any Bank may, if not sooner paid, be deducted from the interest of the Provincial securities deposited by it in the hands of the Receiver General, upon the certificate of the Inspector General; and in the case of the closing of any Bank by the Inspector General, all such expenses payable by the Bank shall be paid out of the assets thereof in preference to any other claim whatever.

Fees for certain services under this Act.

XXXIV. And be it enacted, That the fees to be taken by the Clerk of any Circuit or County Court or any Registrar, shall be,—for fyling and recording or registering any instrument under this Act, and certificate thereof, *seven shillings and six pence*, and *six pence* per hundred words in such instrument and certificate; and for the like services as to the transfer of any share or shares, *two shillings and six pence*, and *six pence* per hundred words.

Existing Banks may avail themselves of the provisions of this Act as to depositing securities and obtaining registered notes, &c.

XXXV. And be it enacted, That any of the now incorporated Banks in this Province may deposit Provincial securities in the hands of the Receiver General, and obtain registered notes to the amount so deposited from the Inspector General, marked as being secured by deposit as aforesaid, which being afterwards signed by the proper functionaries of such incorporated Bank, shall be Bank Notes thereof and may be circulated and shall have the same privileges and advantages as other Bank Notes registered under this Act; and the provisions of this Act relative to the preparation and delivery of registered notes by the Inspector General and the payment of the expenses attending the same, shall apply to those delivered by him under this Section, but the other provisions of this Act shall not be thereby extended or deemed applicable to any now incorporated Bank: Provided always, that in case of the failure of any such now incorporated Bank, the holders of the registered notes thereof shall be paid

Proviso.

out of the proceeds of the debentures by the deposit whereof the same are secured and of any dividend or interest accruing thereon after such failure, in preference to any other creditor whatever of such Bank.

5 XXXVI. And be it enacted, That for and notwithstanding any thing in the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign and intituled "*An Act for levying a certain rate or duty on Bank notes issued and in circulation in this Province,*" no duty
10 shall be payable on Bank notes secured by the deposit of Provincial securities in the manner hereinbefore provided.

XXXVII. And be it enacted, That the Interpretation Act shall apply to this Act, and that if any case not expressly provided for by this Act shall arise, it shall be
15 decided in such manner as shall be most consonant to the general spirit of the provisions of this Act to which reference shall always be held in applying the law to such case; and no amendment of this Act, or declaratory
20 enactment applying indiscriminately to all similar cases, which may be made as to the intent and meaning of this Act, nor any enactment which shall be made for giving full effect to its provisions or any of them, shall be deemed an infringement of the rights of any party,
25 although the same may incidentally affect pending cases, or Banks established before the passing of the amending or declaratory Act; and the Governor in Council shall have full power from time to time to make regulations for the governance of the Inspector General and all Receivers or officers to be appointed under this
30 Act, in the performance of the duties assigned to them; and all Courts to whom any jurisdiction is assigned by this Act shall have full power to make rules of practice and tariffs of fees with regard to all proceedings to be adopted in carrying such jurisdiction into effect.

35 XXXVIII. And be it enacted, That a general statement of the Banks established under this Act, their capital, circulation, liabilities, and such other particulars respecting them as may be required to shew the operation of this Act, and an account of the expenses incurred in carrying
40 it into effect, shall be laid before the Legislature within days after the opening of each Session thereof.

Interpretation and reservation of right to amend this Act.

Statements to be laid before the Legislature.