

The Provincial Statutes of Lower-Canada, Being the first session of the of the Special Council, begun and holden at the City of Montreal, in the said Province of Lower Canada, the eighteenth day of April, 1838. Quebec: John Carleton Fisher & William Kemble, Law Printer to the Queen's Most Excellent Majesty, 1838.

1 Victoria – Chapter 24 (Session 1)

An Ordinance to authorize the Incorporated and Chartered, and other Banks in this Province to suspend the redemption of their Notes in Specie, under certain regulations, for a limited time.

Whereas the Banks of the United States of America and of Upper Canada have generally suspended, and continue to suspend the redemption of their Notes in Specie, and by the laws of those Countries, British Gold and Silver Coins are current at a higher value than they are by law in this Province;—And whereas it is necessary to protect the Banking Institutions in this Province from the danger to be apprehended from the withdrawal of the British Gold and Silver Coins and other Specie therein, which would result if the said Banking Institutions should be bound to redeem their Notes with Specie, while the Notes of the said Banks of the United States and of Upper Canada are not redeemed in like manner: Be it Ordained and Enacted by the Administrator of the Government of this Province, authorized to execute the Commission of the Governor thereof, by and with the advice and consent of the Special Council for the affairs of the said Province, constituted and assembled by virtue of and under the authority of an Act of the Parliament of Great Britain and Ireland, passed in the first year of the Reign of Her present Majesty, intituled, “An Act to make temporary provision for the Government of Lower Canada”;—And it is hereby ordained and enacted by the authority of the same, that any Bank in this Province now incorporated or chartered by any Ordinance or Law thereof, or by Royal Charter, which has heretofore ceased, or which shall cease to redeem its Notes or other liabilities in the Current Coin of this Province, shall not in consequence thereof be compelled to cease its Banking operations, or be deemed to have forfeited its Ordinance, Act, or Royal Charter of Incorporation, or be rendered liable to any disability, penalty, or forfeiture by reason of its having ceased to redeem its Notes and liabilities in lawful Current Coin as aforesaid, any thing, or any Ordinance, or Law, or Act of Incorporation of this Province, or in any Royal Charter, of such Bank, to the contrary notwithstanding; Provided that it shall appear proper to the Governor, Lieutenant Governor, or person administering the Government of the Province, that such Banks should, under the circumstances disclosed by them, be allowed to continue their business of Banking, notwithstanding their suspension of Cash payments, in which case it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government of the Province, in Council, to make an Order or Minute to that effect, which shall be published in the Quebec Gazette during the time of such suspension of Cash payments; and such Order or Minute of the Governor, Lieutenant Governor, or person administering the Government of the Province, and Council, shall have the effect of saving such Bank from any forfeiture of the rights, benefits, or privileges and other advantages conferred on or granted to it by any Ordinance of the Governor and Special Council for the affairs of this Province, or by any Act

of the Legislature of this Province, or by Royal Charter, by reason of their suspension of Cash payments, before or after the making of such Order or Minute, and from any and every penalty or disability which would or might otherwise ensue thereon; and Provided also, that such Bank shall, with its petition or application for an Order or Minute in the behalf aforesaid, and whensoever afterward, during the time of such suspension of Specie or Cash payments the same shall be required, render unto the Governor, Lieutenant Governor, or person administering the Government of this Province, a statement of the affairs of the said Bank, containing on the one part, the amount of Notes in circulation, the net profits in hand, the balances due to other Banks and the Cash deposited in such Bank, distinguishing deposits bearing interest, if any there be, and on the other part, the amount of current coins, and gold and silver bullion in the Vaults of the said Bank, the value of the buildings and other real estate belonging to the said Bank, and notes of other Banks held by the said Bank, the balances due from other Banks, and the amount of all debts owing to the said Bank, including and particularizing the amount so owing on Bills of Exchange, discounted notes, mortgages and other securities, thus exhibiting, on the one hand, the debts due by the said Bank, and on the other hand, the resources thereof, and which statement of the affairs of the said Bank shall also contain a statement of the amount of the Capital Stock subscribed, and of the amount thereof actually paid in, the rate and amount of the then last dividend declared by the said Bank, the amount of the profits reserved at the time of declaring such dividend, the amount of debts due to the said Bank, and secured by the pledge of the Stock thereof, belonging to the persons from whom such debts are due, and the amount of debts overdue and not paid, with an estimate of the loss which may probably be incurred from the nonpayment of such debts; and a list of the names of all persons, who shall, at the commencement of every quarter of the year during the time for which such statement shall be required and made, have been Shareholders in the said Bank, specifying the number of shares held by each and every such person at the commencement of each quarter, and also the amount of paper discounted for, or moneys loaned to the Directors, or for which they may be in any way security to the said Bank, and the said statement of the affairs of the said Bank shall be rendered as aforesaid under the oaths of the President or Vice President, and three of the Directors, and the Cashier or principal officer of the Bank rendering the same; which oaths shall and may be administered by any Judge of Her Majesty's Court of King's Bench for this Province. Provided always, that nothing herein contained shall compel or authorize any Bank to particularize in any such statement the private account of any person or persons with the said Bank.

II. And whereas it may be found impracticable for individuals or associations of individuals, during the suspension of payments in specie by all or any of the Incorporated or Chartered Banks in this Province, to obtain gold or silver coins legally current therein, and it is necessary to make such provision as may afford reasonable protection in that behalf;—Be it therefore Ordained and Enacted by the authority aforesaid, that so long as the said Incorporated or Chartered Banks in this Province, or any of them, shall, under the provisions of this Ordinance, have authority to suspend payments in specie, it shall and may be lawful for the Courts of this Province, in any actions depending or to be hereinafter brought in any of the said Courts, on summary proof being made that the amount of debt was tendered by

the Defendant to the Plaintiff before the institution of the action, in notes of the said Incorporated or Chartered Banks, which shall have been authorized to avail themselves of the provisions of this Ordinance (the said notes being generally current at par, and payable to the bearer thereof,) and on the said amount of debt being in such notes also paid into Court, to be accepted by the Plaintiff if he see fit, to stay proceedings in such action without costs, until further orders shall be made thereon, and the amount of said debts shall not bear interest from the day that the tender thereof shall be made, if the said amount be subsequently paid into Court in notes as aforesaid. Provided it be made to appear to the satisfaction of the Court, that the necessity for proceeding in such action does not arise from the want of the amount of debt being ascertained.

III. And be it further Ordained and Enacted by the authority aforesaid, that during the continuance of this Ordinance, no action or suit shall be prosecuted against any of the aforesaid Banks, which shall have been authorized to suspend payment in specie under the provisions of this Ordinance, in order to compel payment of any notes of such Bank, expressed to be payable on demand and it shall be lawful for the President and Director of every such Bank, during the continuance of their suspension of cash payments in the manner allowed by this Ordinance, to apply to the Court wherein such action shall be brought or shall be depending, to stay proceedings therein in a summary way, and in case such action or suit shall be brought to compel payment of any note or notes made payable on demand, such Court shall stay all proceedings accordingly during the continuance of this Ordinance or during the suspension of cash payments as provided by this Ordinance: Provided always, that if it shall appear to such Court to be necessary for the purpose of ascertaining the amount of any demand on such Bank, or otherwise for the furtherance of justice, that any proceedings should be had for such purpose, it shall be lawful for such Court to permit proceedings to be had in any such action or suit for such necessary purpose only. Provided also, that no costs shall be recovered against any such Bank in any action or suit which shall be brought for the purpose of compelling payment of any debt or demand, unless the Court wherein the same shall be brought shall be of opinion that the same was necessary for the purpose of ascertaining the amount of such debt or demand, or the title thereto, or for the furtherance of justice as aforesaid.

IV. And be it further Ordained and Enacted by the authority aforesaid, that so long as any of the said Incorporated or Chartered Banks in this Province shall, under the provisions of this Ordinance, continue their business of Banking without paying their notes in specie on demand, the total amount of the notes of such Bank in circulation shall not, at any time, exceed the amount of Capital Stock of such Bank actually paid in.

V. And be it further Ordained and Enacted by the authority aforesaid, that during the time of such suspension of specie or cash payments, it shall not be lawful for any Incorporated or Chartered Bank in this Province, which hath suspended or shall suspend specie or cash payments, to sell any portion of the gold or silver which may be in its possession, or to make any other disposition thereof which shall diminish the amount according to its legal value, then by paying in change the fractional parts of a dollar.

VI. And be it further Ordained and Enacted by the authority aforesaid, that all and every the provisions in this Ordinance contained, shall and may extend to a certain Association carrying on the business of Banking at the City of Montreal, under the name and firm of Viger, Dewitt and Company, and commonly called the "People's Bank, or La Banque du Peuple". Provided always, that in addition to the Statement and Statements required by the first section of this Ordinance, the said Association do furnish under the Oaths therein expressed, a list of the names, places of residence and additions of the Co-partners and Stockholders of and in the said Association; with the number of shares and amount of Capital Stock subscribed by each of them respectively, and the amount of Stock, Capital Stock by each of them respectively, actually paid in; and distinguishing also in such list of Copartners and Stockholders the names of such of them as are the President, Vice President and Directors of the said Association.

VII. And be it further Ordained and Enacted by the authority aforesaid, that all and every the provisions in this Ordinance contained, shall and may likewise extend to a certain Association or Joint Stock Company, established in London for the purpose of carrying on the business of Banking in the Provinces of British North America, under the name or title of "The Bank of British North America," and whereof a Branch has been established in each of the Cities of Quebec and Montreal. Provided always, that in lieu of the Statement and Statements required of the other Banks by the first section of this Ordinance, the Local Directors and Managers of each of the said Branches, shall furnish under the Oaths of three of the said Local Directors and of the Manager respectively, a true and faithful return of the affairs of each of the said Branches in conformity with the Schedule A. hereunto annexed.

VIII. And be it further Ordained and Enacted by the authority aforesaid, that it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government of this Province, in Council, when it shall appear proper and advisable to His Excellency the Governor, Lieutenant Governor, or person administering the Government, and Council, at any time during the suspension of payment in specie by any of the said Banks or Associations in this Ordinance mentioned, to revoke the Order or Minute, whereby any of the said Banks or Associations were or was allowed to continue their business of Banking, notwithstanding their suspension of cash payments, and that on the expiration of sixty days from and after the publication in the Quebec Gazette of an Order or Minute to that effect, of the Governor, Lieutenant Governor, or person administering the Government of this Province, in Council, the Bank or Banks, Association or Associations in the last mentioned Order or Minute specified and described, shall be divested and deprived of all and every the benefits, rights, privileges and advantages, which they or any of them before that time had and possessed under the provisions of this Ordinance. And that from and after the lapse of the said space of sixty days after such publication, this Ordinance shall be of no force or effect whatever, as to the said Bank or Banks, Association or Associations specified and described in such Order or Minute, or as to the notes issued by them, or any of them, or other their liabilities according to Law.

IX. And be it further Ordained and Enacted by the authority aforesaid, that if any person shall knowingly swear falsely, in any matter stated by him on oath under the provisions of this Ordinance, he shall, on conviction, be deemed guilty of wilful and corrupt perjury.

X. And be it further Ordained and Enacted by the authority aforesaid, that this Ordinance shall continue and be in force until the first day of June, one thousand eight hundred and thirty-nine, and no longer. Provided always, that it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the Government of this Province, by and with the advice of the Executive Council thereof, by his Proclamation under the Great Seal of the Province, to declare that this Ordinance, and all the provisions thereof, shall cease and determine at any time before the lapse of the period aforesaid, but not less than two months from and after the date and publication of the said Proclamation.

Schedule A.	
Abstract from the Books of the Bank of British North America, Montreal, exhibiting a General Statement of the Affairs of the Branch	
Gold and Silver, and other Coined Metals on hand, Bills and Cheques on Banks in these Provinces, Do. on other Banks elsewhere, Amount of debts due, including Notes, Funded Debts of any description, except the Balances due from other Banks and Branches, Balances due from other Banks and Branches, Real Estate	Capital Stock. Amount actually paid in, Bank Notes in circulation, Net Profits on hand, Balances due other Banks and Branches Bank Acceptances outstanding, Cash Deposits including all sums whatsoever due from the Bank not bearing interest, its Bills in circulation, Profits and Balances excepted. Amount of Dividends unclaimed.
<p>We do hereby certify, to the best of our knowledge and belief, that the above Statement of the affairs of the Bank of British North America at Montreal is correct.</p> <p>Sworn before me at Montreal, this day of }</p>	

J. COLBORNE.

Ordained and Enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House, in the City of Montreal, the fifth day of May, in the first year of the Reign of our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, in the Year of our Lord One Thousand Eight Hundred and Thirty-eight.

By His Excellency's Command,
Wm. B. LINDSAY,
Clerk Special Council.