

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 25 (Session 1)

An Ordinance to enable the Proprietors or Shareholders of a Company called the Bank of British North America, to sue and be sued, in the name of any one or more of its Local Directors or Managers, for the time being, and for other purposes therein mentioned.

Whereas several persons have formed themselves into a Company or Partnership called or known by the name of "The Bank of British North America," for the purpose of establishing and carrying on Banks of Issue and Deposit at various Cities, Towns, and places within the several British Settlements and Colonies in North America, and have subscribed or raised a considerable sum of money, in order to carry on the business of the said Bank, it is expedient to make certain regulations for the proper conduct of the affairs of the Branches of the said Bank established in this Province Be it therefore Ordained and Enacted by His Excellency 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 the United Kingdom 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 it shall be lawful from and after the passing of this Act, for the Proprietors of the Capital Stock of the Bank of British North America, in the name of any one or more of its Local Directors, or in the name of any one of the Managers for the time being, to sue and be sued, to plead and be impleaded, to answer and be answered, to defend and be defended, in all Courts and places whatsoever, in all manner of actions, suits and complaints, matters or causes whatsoever, in the said Province of Lower Canada; and for the ends of Justice, it shall be lawful for the said Company of Proprietors, in the name of any one or more of its Local Directors or Managers for the time being, to institute an action or actions at Law and suits against any proprietor or proprietors of the Capital Stock of the said Company, or against any of the Local Directors or Managers; Also, for any Proprietors, Local Directors or Managers to prosecute the said Company or Association, by any action or suit against any one or more of the said Local Directors or Managers, in any Court of Law in this Province; any Act, Law, or Ordinance to the contrary notwithstanding.

II. And be it further Ordained and Enacted by the authority aforesaid, that it shall be lawful for the said Company of Proprietors of the Capital Stock of the Bank of British North America, to issue an amount in notes, at each of their Branches in this Province, being for a less sum than One Pound Five Shillings Currency each, the total amount whereof shall not exceed one fifth of the actual amount placed at the credit and disposal of their respective Branches; any law, usage, or custom to the contrary notwithstanding. Provided that no Note

or Bill so issued shall be of a less denomination or amount than Five Shillings of the current money of this Province.

III. 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 the Province, to require from the Local Directors and Managers of the said Bank a statement of the affairs of the Company, in conformity with the Schedule appended hereto, marked A. which statement the said Local Directors and Managers shall be bound to furnish, under oath, when so required, as aforesaid. Provided always, that such statement shall also set forth the amount of Capital actually placed at the disposal of the different Branches respectively.

IV. And be it further Ordained and Enacted by the authority aforesaid, that it shall be lawful for the said Company of Proprietors to hold such lands, tenements, hereditaments, and only such as shall be requisite or convenient for the transaction of their business, the same to be vested in the names of Trustees, who shall consist of two or more of the Local Directors, and the Managers for the time being. Provided the said lands, tenements, and hereditaments shall not exceed the yearly value of one thousand pounds, of the current money of this Province. Provided also, that the said Bank may take and hold mortgages, hypothèques, on real property, according to the Law of this Province, by way of additional security for debts contracted to the said Bank in the course of its dealings; but on no account shall money be lent on mortgage, hypothèque, or upon land, or other fixed property; nor shall such be purchased by the said Bank upon any pretext as above mentioned.

V. And be it further Ordained and Enacted by the authority aforesaid, that if any officer, manager, clerk or servant of the said Bank of British North America, intrusted with any Bond, Obligation, Bill, obligatory or of credit, or of any other bill or note, or any security, money or effects belonging to the said Bank of British North America, or having any bond, obligation, or bill, obligatory or of credit, or any other bill or note, or any security, money or effects of any other person or persons, lodged or deposited with the said Bank of British North America, or with him as an officer, manager, clerk or servant of the said Bank of British North America, shall secrete, embezzle, or run away with any such bill, bond, obligation, bill, obligatory or of credit, or any such other bill or note, security, money or effects, or any of them, or any part of them, every such officer, manager, clerk or servant so offending, and being thereof convicted in due form of Law, shall be deemed guilty of felony, and shall suffer death as a felon, without benefit of clergy.

VI. And be it further Ordained and Enacted by the authority aforesaid, that if any person or persons shall forge or counterfeit the Common Seal of the said Company, or shall forge or counterfeit, or alter any bond, obligation, bill, obligatory or of credit, or any other bill or note of the said Bank of British North America, or any indorsement or indorsements thereon, with an intention to defraud the said Bank, or any person or persons whomsoever; or shall alter or pass any forged, counterfeit or altered bond, obligation, bill, obligatory or of credit, or any other bill or note of the said Bank of British North America, or indorsement or indorsements

thereon; or shall demand the money therein mentioned and contained, knowing the same to be forged, counterfeit or altered, every such person, for every such offence, upon conviction thereof in due form of Law, for the first offence, shall be deemed and adjudged to be guilty of a misdemeanor, and on being lawfully convicted thereof, shall be liable for such offence to be imprisoned for a time, which shall not be less than six months, nor more than six years, and to be kept at hard labour, or to be publicly whipped, or stand in the pillory, or undergo one or more of the said punishments, at the discretion of the Court before which such conviction shall take place; and shall, for a second offence, be deemed and adjudged to be guilty of felony.

VII. And be it further Ordained and Enacted by the authority aforesaid, that if any person shall engrave, form, make or mend any plate or plates, paper, rolling press, or other tool, instrument or material, devised, adapted and designed for stamping, forging, or making any false and counterfeit Bill of Exchange, Promissory Note, undertaking or order for the payment of money, purporting to be the Bill of Exchange, Promissory Note, undertaking or order of the said Bank of British North America, or of any of the officers or persons engaged in the management of the concerns of the Bank, in the name and on the behalf of the said Bank; or shall have in his possession any such plate or plates engraven in any part, or any paper, rolling press or other tool, instrument or material, devised, adapted or designed as aforesaid, with the intent to use and employ the same, or to cause or permit the same to be used and employed in forging, and making any such false and counterfeit Bills of Exchange, Promissory Notes, undertakings or orders, every person so offending, shall be deemed and taken to be guilty of felony, and being thereof convicted, shall suffer death as a felon, without benefit of clergy.

VIII. And be it further Ordained and Enacted by the authority aforesaid, that it shall and may be lawful to, and for any one Justice of the Peace, on complaint made before him, upon the oath of one credible person, that there is just cause to suspect that any one or more person or persons, is or are, or hath or have been concerned in making or counterfeiting any such false Bills of Exchange, Promissory Notes undertakings, or orders as aforesaid, by Warrant under the hand of such Justice, to cause the dwelling house, room, workshop, outhouse, or other buildings, yard, garden or other place belonging to such suspected person or persons, or where any such person or persons shall be suspected to carry on any such making or counterfeiting, to be searched for any such false Bills of Exchange, Promissory Notes, undertakings or orders, and if any such false Bills of Exchange, Promissory Notes, undertakings or orders, or any such plates, rolling presses, or other tools, instruments, or materials, shall be found in the custody or possession of any person or persons whomsoever, not having the same by some lawful authority, it shall and may be lawful to and for any person or persons whomsoever discovering the same, to seize and he and they are hereby authorized and required to seize such false or counterfeit Bills of Exchange, Promissory Notes, undertakings or orders, and such plates, rolling presses, or other tools, instruments or materials, and to carry the same forthwith before a Justice of the Peace of the County or District in which the same shall be seized, who shall cause the same to be secured, and produced in evidence against any person or persons, who shall or may be prosecuted for any

the offences aforesaid, in some Court of Justice proper for the determination thereof; and the same, after being produced in evidence, shall by order of the Court, before which such offender or offenders shall be tried, be defaced or destroyed, or otherwise disposed of, as such Court shall direct.

IX. And be it further Ordained and Enacted by the authority aforesaid, that nothing herein contained, shall be construed or taken to extend to incorporate the said Company, or to discharge the holders of shares from personal and individual liability to which they are now subject by Law, either as between the Company and any of the individual Proprietors, or as between or among themselves, or in any other manner whatsoever.

X. And be it further Ordained and Enacted, that this Act shall be deemed and taken to be a public Act, and shall be judicially taken notice of by all Judges, Justices, and others.

XI. And be it further Ordained and Enacted, that this Ordinance shall continue in force till the first November, one thousand eight hundred and forty-two, and no longer; and it shall and may be lawful for the Governor, Lieutenant Governor, with the advice of the Executive Council, 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 three months from and after the date 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

<p>Gold and Silver, and other Coined Metals on hand, Bills and Cheques on Banks in these Provinces, Bills and Cheques in other Banks elsewhere, Amount of debts due to the Branch, including Notes, Bills of Exchange, and all stock and Funded Debts of any description, except the Balances due from Other Banks and Branches, Balances due from other Banks and Branches, Real Estate,</p>			<p>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, bearing interest, 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>		
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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.

Sworn before me at Montreal,
this day of 18 }

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.