

The Provincial Statutes of Lower-Canada, Being the fourth session of the of the Special Council, begun and holden at the City of Montreal, in the said Province of Lower Canada, fourteenth day of February, 1839. Quebec: John Carleton Fisher & William Kemble, Law Printer to the Queen's Most Excellent Majesty, 1839.

2 Victoria – Chapter 57 (Session 4)

An Ordinance to regulate Private Banking, and the Circulation, of the Notes of Private Bankers.

Whereas it is expedient to regulate, by Law, the issuing or circulation of Notes and other written promises and undertakings/ for the payment of money, intended for circulation in this Province, and not being those of any Bank chartered or recognized, or authorized by the Legislature of this Province, or by competent authority in any part of Her Majesty's Dominions, or in the United States of America:—Be it therefore Ordained and Enacted by His Excellency the Governor of the Province of Lower Canada, 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, "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 after the expiration of fifteen days from the passing of this Ordinance, it shall not be lawful for any person or persons, body politic or corporate, except the Banks which are or may be chartered or recognized as aforesaid, to make, sign or indorse, or draw any bill, note, bon, check, or other promise or undertaking, for the payment of any sum less than five pounds currency, either in money or in other notes purporting to be payable in money, if the same be made payable, either in form or in fact, to the bearer thereof, or on demand, or less than thirty days thereafter, or at sight, or less than thirty days thereafter, or be over due, or antedated, or be in any way whatever calculated or intended for circulation, as a substitute for money, or of any notes of such chartered or recognized Banks as aforesaid, or of any thing which is itself a substitute for money, unless such maker or makers, signer or signers, indorser or indorsers, shall have obtained a Licence from the Governor, Lieutenant Governor, or person administering the Government of this Province, to act as a Banker or Bankers in this Province; and any person or persons, body politic or corporate, who shall offend against the provisions of this section, shall, for each such offence, incur a penalty of triple the nominal amount of each bill, note, bon, check, promise, or undertaking, made, signed, indorsed, or drawn, contrary to the provisions of this Ordinance; Provided always, that nothing in this section shall extend to any check upon any chartered or incorporated, or recognized Bank, or licenced Banker, paid by the maker or makers thereof, to his, her or their immediate creditor or creditors.

II. And be it further Ordained and Enacted by the authority aforesaid, that any licence granted under the authority of this Ordinance shall be forfeited, if the person or persons, body politic or corporate, holding such licence shall, in any case, refuse or neglect to pay, on

demand, and according to the purport and tenor thereof, any bill, note, bon, promise, or undertaking, made and issued, signed, drawn, or endorsed at anytime, either before or after the receiving such Licence, by such person or persons, body politic or corporate, who shall, from and after the time of such refusal be subject to all the restrictions and penalties to which persons having no such licence are liable under this Ordinance; Provided always, that if at any time it shall happen that the chartered or recognized Banks in this Province shall be legally authorized to suspend the redemption of their notes in specie, it shall be sufficient for any party licenced under this Ordinance, to redeem his, her, or their liabilities, with the notes of any such chartered or recognized Banks; And provided also, that if any Bank, chartered, recognized, or authorized as aforesaid by competent authority, in any part of Her Majesty's Dominions or in the United States of America, but not so chartered or recognized, or authorized in this Province, shall establish an agency or office therein, all the provisions of this section shall extend to such Bank, and any refusal or neglect on the part of such Bank, to redeem any bill, note, bon, promise, or undertaking of such Bank, in specie, (or in case of the legal suspension of specie payments, as aforesaid, in the notes of some Bank chartered or recognized by competent authority in this Province, and authorized to such suspension,) shall, from the date thereof, render such Bank liable for each and every note, bill, bon, promise or undertaking of such Bank, issued thereafter, by or from such agency or office, to the pains and penalties to which any person would be liable for issuing any such bill, note, bon, promise or undertaking, without a licence under this Ordinance.

III. And be it further Ordained and Enacted by the authority aforesaid, that no such person or persons, body corporate or politic, shall make, sign, draw, or indorse any such bill, note, bon, promise, or undertaking, for any less sum than five shillings currency, under a penalty of five pounds currency for each offence.

IV. And be it further Ordained and Enacted by the authority aforesaid, that all licences granted under the authority of this Ordinance, shall be granted for one year from the date thereof, and no longer, and shall be published by the party receiving them, in both languages, in at least two newspapers published in each of the Cities of Quebec and Montreal.

V. And be it further Ordained and Enacted by the authority aforesaid, that the person or persons, body politic or corpore, to whom any licence shall be granted under the authority of this Ordinance, shall respectively transmit to the Governor, Lieutenant Governor, or person administering the Government of this Province, before such licence shall be granted, and at the end of every three months afterwards, reckoning from the date of the licence, and at any other time when he shall think fit to demand the same, a statement of his, her or their affairs at the time, and shall answer in writing all such questions touching such statement, as shall be put by order of the Governor, Lieutenant Governor, or person administering the Government, but shall not be bound in such statement or answer to disclose the private account of any third party, nor shall it be requisite to state more of the affairs of the party making the statement, than is requisite to prove the ability of such party to meet his or their liabilities; and such statement shall be in the form of the Schedule A, and

shall be attested on oath, as shall also the answers so to be given as aforesaid respecting the same by the person, or one of the persons, or by the legal representatives of the body politic or corporate, to whom the licence was granted; and if such statement be not transmitted, or if such answer be not given in the manner herein required, the licence of the party so in default shall be forfeited; Provided always, that such statement shall show the amount of notes issued by the party making it, for less than five dollars each, and such amount shall not exceed one fifth of the capital of such party (as shown by such statement) whose licence shall be forfeited by any such excess; and in calculating such capital, all liabilities, except notes and pro-mises issued under the authority of such licence, shall be deducted from the amount of effects shown in the statement.

VI. And be it further Ordained and Enacted by the authority aforesaid, that in any case of refusal or neglect to transmit such statement or give such answers, it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government, to cause official notice to be inserted in the Quebec Gazette, published by authority, and in the Montreal Gazette, that the licence of the party in default is forfeited; and the party whose licence shall have been forfeited for such cause, or for any other contravention of this Ordinance, shall be held to have had no licence from the time such forfeiture was incurred.

VII. And be it further Ordained and Enacted by the authority aforesaid, that the statement so transmitted as aforesaid shall be published officially in the Quebec Gazette, published by authority, and the Montreal Gazette, and in one other Newspaper published in each City, by the party making the statement; and it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government to publish any part of any answers thereunto relating, which he shall deem it expedient to make public.

VIII. And be it further Ordained and Enacted by the authority aforesaid, that from and after the fifteenth day of June next after the passing of this Ordinance it shall not be lawful for any person or persons, directly or indirectly, to give or receive as money, or as a substitute for money or for such Bank notes, or other thing which may be itself intended as a substitute for money as aforesaid, or to pass or utter in anyway, any bill, note, bon, check, or other promise or undertaking, for the payment of any sum less than five pounds currency, if the same be in fact or in form payable on demand, or less than thirty days thereafter, or at sight, or Less than thirty days thereafter, and be in form, or in fact payable to the bearer thereof, or be in any way whatever intended or calculated to form a circulating medium in place of money, or of bank notes, or other thing as aforesaid in this Province, unless such bill, note, bon, check or other promise or undertaking as aforesaid shall have been made and issued by some chartered or recognized Bank within Her Majesty's Dominions, or by some chartered Bank in the United States of America, or by some party duly licenced under this Ordinance, and made and dated after such party shall have been so licenced, or be a check drawn by the party paying or uttering it on some such Bank as aforesaid, or on some party licenced as aforesaid, and not passed into the hands of any third party; Provided always, that nothing herein contained shall prevent any person or persons, who is, are, or shall become, on or before the said fifteenth day of June, the holder or holders of any such bill, note, bon, check,

or other promise or undertaking, or his, her, or their legal representatives, from demanding, enforcing and receiving payment of the same from the maker or makers, drawer or drawers, acceptor or acceptors, indorser or indorsers thereof, or his, her, or their legal representatives.

IX. And be it further Ordained and Enacted by the authority aforesaid, that each and every person who shall, contrary to the provisions of this Ordinance pay, utter or receive any such bill, note, bon, check, promise or undertaking as aforesaid, shall incur a penalty of triple the nominal amount thereof.

X. And be it further Ordained and Enacted by the authority aforesaid, that the penalties imposed by this Ordinance, may be recovered in a summary manner, with costs, on the oath of one credible witness, other than the informer (or of the informer, if he, or she be a credible witness, and shall forego the moiety of the penalty which would otherwise belong to him, or her) before any two or more Justices of the Peace, if the penalty sued for does not exceed the sum of twenty pounds currency; and if it exceed that amount, then in any Court of competent jurisdiction, and the Court or Justices rendering judgment for any such penalty and costs against any offender, may award execution or distress for the same, or may condemn the offender to be imprisoned for not more than six months, or until such penalty and costs be paid: Provided always that no person, who shall be a witness or informer against either the giver or payer, or the receiver of any such bill, note, bon, check or other promise or undertaking, or against both of them, shall thereupon be liable to any prosecution, or to any penalty under this Ordinance, by reason of his, or her share or part in such giving, paying or receiving, nor shall his, or her evidence be invalidated by reason of the same.

XI. And be it further Ordained and Enacted by the authority aforesaid, that any mortgage or hypotheque, or any deed, bond or obligation, note, bill, or other security, which may, directly or indirectly, mediately or immediately, be given or taken for securing any loan or advance made in such bills, notes, bons, promises or undertakings as are prohibited by this Ordinance to be circulated, shall be absolutely null and void; and any person or persons who may have been concerned in taking such mortgage or hypotheque, or other deed, bond, obligation, note, bill, or other security, or in making such loan or advance, whether on his, her or their own behalf, or that of others, shall be liable to be interrogated with respect to the same, in any Court of Law, as freely and fully as any party may be interrogated in his own, cause, or in that of any other person or persons, and to incur all the legal consequences of refusing to answer, or of answering untruly, any law, usage or custom to the contrary notwithstanding.

XII. And be it further Ordained and Enacted by the authority aforesaid, that nothing in this Ordinance shall extend, or be construed to extend, to make valid any bill, note, bon, check, or other undertaking, for the payment of money notes, or substitute for money as aforesaid, which may have been, or may hereafter be made, issued, or circulated in contravention of any Law, Statute, or Ordinance in force in this Province.

XIII. And be it further Ordained and Enacted by the authority aforesaid, that one moiety of all penalties recovered under this Ordinance, shall go to Her Majesty, for the public uses of the Province, and the other moiety shall belong to the informer unless he or she shall forego the same as. aforesaid, in which case the whole shall go to Her Majesty, for the said uses; and all such penalties and monies received for the said uses, under this Ordinance, shall be accounted for to Her Majesty, her heirs and successors, through the Lords Commissioners of the Treasury, in such manner and form as Her Majesty, her heirs and Successors, shall direct.

SCHEDULE A.

Statement of the affairs of

EFFECTS.	LIABILITIES.
Amount of Gold, Silver, and other Coined Metals in hand, £	Amount of monies on hand of any kind, belonging to other persons, £
Bills or Checks on Banks, or licensed Bankers in this Province,	Amount of debts due to Banks and Bankers,
Amount of Balances due from any such Bank or Banker,	Amount of debts due to other persons,
Amount of Stock in any such Bank, Amount of Balances due from any other parties secured on any real property,	Amount of Bills, Notes, Bons, and other promises in writing, for the payment of money outstanding or in circulation,
Amount of such Balances not so secured, but which are believed to be good,	Amount of Notes or Bills, endorsed for or of security given for others, which it is believed will become payable by the party making the statement.
Real Property, that is to say, (describe such property,) the clear value of which over and above all incumbrances thereon or rents or dues of any kind, payable out of it, is, at least,	Other liabilities, (specify their nature and amount,)
£	£
(If any other effects they may be stated and described.)	

(I or we) solemnly swear, that the above Statement is correct and true, and that (I am) or (we are) or (is) worth and able to raise and pay the the sum of _____ by which the effects

