

Acts of the General Assembly of Her Majesty's Province of New-Brunswick passed in the year 1857. Fredericton, NB: John Simpson, Printer to the Queen's Most Excellent Majesty, 1857.

20 Victoria – Chapter 28 Session 2

An Act to incorporate sundry persons by the name of the President, Directors and Company of the Miramichi Bank, in the County of Northumberland. Passed 26th March 1857.

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Section.

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Whereas it is thought that the establishment of A Bank at Chatham, in the County of Northumberland, would promote the interests of the Province by increasing the means of circulation;—

Be it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. That William J. Fraser, William Muirhead, Alexander Loudoun, John Harley, John Noonan, Lestock P. W. DesBrisay, William A. Black, the Honorable John Montgomery, the Honorable William H. Steeves, John M. Johnson, Thomas Vondy, Samuel Leonard Tilley, John M. Johnson, Junior, Peter Mitchell, Robinson Crocker, Alexander M'Laggan, John Bagnell, George E. Letson, their associates, successors or assigns, be and they are hereby declared to be a body corporate by the name of The President, Directors and Company of the Miramichi Bank; and they shall be persons able and capable in law to have, get, receive, take, possess and enjoy houses, lands, tenements, hereditaments and rents, in fee simple or otherwise, and also goods and chattels, and all other things real, personal or mixed, and also to give, grant, let or assign the same or any part thereof, and to do and execute all other things in and about the same as they shall think necessary for the benefit and advantage of the said Corporation; and also that they be persons able and in law capable to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended in any Court or Courts of law and equity, or any other places whatsoever, in all and all manner of actions, suits, complaints, demands, pleas, causes and matters whatsoever, in as full and ample a manner as any other person or persons are in law capable of suing and being sued, pleading and of being impleaded, answering and of being answered unto, and also they shall have one common seal, to serve for the en sealing all and singular their grants, deeds, conveyances, contracts, bonds, articles of agreement, assignments, powers and warrants of Attorney, and all and singular their affairs and things touching and concerning the said Corporation; and also that they the said President, Directors and Company, or the major part of them, shall from time to time, and at all times, have full power and authority and licence to constitute, ordain, make and establish such laws and ordinances as may be thought necessary for the good rule and government of the said Corporation, provided that such laws and ordinances be not contradictory or repugnant to the Laws or Statutes of that part of the United Kingdom of Great Britain and Ireland called England, or repugnant or contrary to the Laws or Statutes of this Province.

2. The capital stock of the said Corporation shall consist of current gold and silver coins of the Province to the amount of twenty thousand pounds; the sum of ten thousand pounds, one half part thereof, to be paid in current gold and silver coins of the Province within one year from the passing of this Act, and the further sum of ten thousand pounds within two years from the passing of this Act; the whole amount of the said stock to be divided, into shares of twenty, five pounds each, making in the whole eight hundred shares.

3. The said Corporation shall have full power and authority to take, receive, hold, possess and enjoy, in fee simple, any lands, tenements, real estate and rents, to any amount not exceeding four thousand pounds; provided nevertheless, that nothing herein contained shall prevent or restrain the said Corporation from taking or holding real estate to any amount whatsoever, by mortgage taken as collateral security for the payment of any sum or sums of money advanced by or debts due to the Corporation; provided further, that the said Corporation shall on no account lend money upon mortgage, or upon lands or other fixed property, nor shall such be purchased by the said Corporation upon any pretext whatsoever, unless by way of additional security for debts contracted with the said Corporation in the course of its dealings.

4. Whenever four hundred shares of said capital stock shall have been subscribed, a general meeting of the members and stockholders of the said Corporation, or the major part of them, shall take place, by notice in one or more of the public Newspapers published in this Province, thirty days previous to such meeting, for the purpose of making, ordaining, and establishing such bye laws, ordinances and regulations for the good management of the affairs of the said Corporation, as the members and stockholders of the said Corporation shall deem necessary, and also for the purpose of choosing five Directors, being stockholders and members of the said Corporation, under and in pursuance of the rules and regulations hereinafter made and provided, which Directors so chosen shall serve until the first annual meeting for choice of Directors, and shall have full power and authority to manage the affairs of the said Corporation, and shall commence the operations of the said Bank, subject nevertheless to the rules and regulations hereinafter made and provided; at which general meeting the members and stockholders of the said Corporation, or the major part of them, shall determine the amount of payments to be made on each share, also the mode of transferring and disposing of the stock and profits thereof, which being entered on the books of the said Corporation shall be binding on the said stockholders, their successors and assigns.

5. There shall be a general meeting of the stockholders and members of the said Corporation, to be annually holden on the first Monday in April in each and every year, at Chatham, in the County of Northumberland, at which annual meeting there shall be chosen by a majority of the said stockholders and members of the said Corporation, five Directors, each of whom shall be resident in the said County, and continue in office for one year, or until others are chosen in their room; in the choice of which Directors, the stockholders and members of the said Corporation shall vote according to the rule hereinafter mentioned; and the Directors when chosen, shall at their first meeting after their election, choose out of their number a President.

6. The Directors for the time being shall have power to appoint such officers, clerks, and servants, as they or the major part of them shall think necessary for executing the business of the said Corporation, and shall allow them such compensation for their respective services as to them shall appear reasonable and proper, all which, together with the expense of buildings, house rent, and all other contingencies, shall be defrayed out of the funds of the Corporation; and the said Directors shall likewise exercise such other powers and authority for the well regulating the affairs of the said Corporation as shall be prescribed by the bye laws and regulations of the same.

7. Not less than three Directors shall constitute a Board for the transaction of business, of which the President shall always be one, except in the case of sickness or necessary absence, in which case the Directors present may choose one of their Board as Chairman in his stead; the President shall vote at the Board as a Director, and in case of there being an equal number of votes for and against any question before them, the President shall have a casting vote; provided always, that no Note or Bill offered for discount at the said Bank shall be refused or excluded by a single vote.

8. No Director shall be entitled to any salary or emolument for his services, but the stockholders and members of the said Corporation may make such compensation to the President as to them shall appear reasonable and proper.

9. No person shall be eligible as a Director unless such person is a stockholder, and holding not less than ten shares of the capital stock of the said Corporation; provided always, that stockholders so otherwise qualified be not a Director in any other Banking Company in this Province.

10. Every Cashier and Clerk of the said Corporation before he enters upon the duties of his office shall give bonds, with two or more sureties to be approved of by the Directors, that is to say, every Cashier in a sum not less than five thousand pounds, with a condition for his good and faithful behaviour, and every Clerk with the like conditions, and sureties in such sum as the Directors shall deem adequate to the trusts reposed in them.

11. The number of votes which each stockholder shall be entitled to on every occasion when, in conformity to the provisions of this Act, the votes of the stockholders are to be given, shall be in the following proportion, that is to say: For one share and not more than four shares, one vote; for every four shares above four and not exceeding twenty, one vote, making five votes for twenty shares; for every eight shares above twenty and not exceeding sixty, one vote, making ten votes for sixty shares; which said number of ten votes shall be the greatest number that any stockholder shall be entitled to have.

12. All stockholders resident within this Province or elsewhere, may vote by proxy, provided that such proxy be a stockholder, and do produce sufficient authority in writing, from his constituent or constituents, so to act; provided that no stockholder be entitled to more than three proxies.

13. No member of the said Corporation during the first three months, to be accounted from and after the passing of this Act, shall be entitled to hold and subscribe for more than forty shares of the said capital stock, and if the whole of the said capital stock shall not have been subscribed within the said three months so to be accounted as aforesaid, then and in such case it shall be lawful for any stockholder or stockholders to increase his or their subscriptions to eighty shares; provided always, that no stockholder shall be permitted to hold more than one hundred shares in the whole, unless the same be acquired by purchase after the said Bank shall have commenced its operations; and provided also; that no stockholder in the said Bank at any one time shall hold more than twenty per cent, of the capital stock.

14. The Directors are and they are hereby authorized to fill up any vacancy that shall be occasioned in the Board by the death, resignation, or absence from the Province for three months, of any of its members; but in the case of the removal of a Director by the stockholders for misconduct or maladministration, his place shall be filled up by the said stockholders, and the person so chosen by the Directors or the stockholders shall serve until the next succeeding annual meeting of the stockholders.

15. Before any stockholder shall be required to make payment of any instalment upon the amount of his subscription, thirty days previous notice shall be given by the Directors in two of the Newspapers published in this Province, of the time and place of payment, and the Directors shall commence with the business and operations of the Bank of the said Corporation; provided always,

that no Bank bill or Bank note shall be issued or put in circulation, nor any bill or note be discounted at the said Bank, until the said sum of ten thousand pounds shall be actually paid in and received on account of the subscriptions to the capital stock of the said Bank.

16. As soon as the sum of ten thousand pounds shall have been paid in current gold and silver coins, and shall then be in the vaults of the said Bank, the President shall give notice thereof to the Secretary of the Province for the information of His Excellency the Lieutenant Governor or Administrator of the Government for the time being, who is hereby authorized, by and with the advice of Her Majesty's Executive Council, to appoint three Commissioners, not being stockholders, whose duty it shall be to examine and count the money actually in the vaults, and to ascertain by the oaths of the majority of the Directors, that half the amount of its capital hath been paid in by the stockholders toward payment of their respective shares, and not for any other purpose, and that it is intended to have it there remain as part of the capital stock of the said Bank, which investigation is hereby declared indispensable, and shall be made at the periods prescribed by the second Section of this Act, when paying in the capital stock of the said Bank.

17. The shares or capital stock shall be assignable and transferable according to the rules and regulations that may be established in that behalf, but no assignment or transfer shall be valid or effectual unless such assignment or transfer shall be entered and registered in a Book to be kept by the Directors for that purpose, nor until such person or persons so making the same shall previously discharge all debts actually due and payable to the said Corporation; in no case shall any fractional part of a share or other than a complete share or shares be assignable or transferable, and whenever any stockholder shall transfer in manner aforesaid all his stock or shares in the said Bank to any other person or persons whatever, such stockholder shall cease to be a member of the said Corporation.

18. The said Company shall not directly or indirectly deal in any thing excepting bills of exchange, gold or silver bullion, or in the sale of goods really and truly pledged for money lent and not redeemed in due time, or in the sale of stock pledged for money lent and not so redeemed; which said goods and stock so pledged shall be sold by the said Corporation at public sale at any time not less than thirty days after the period for redemption; and if upon such sale of goods or stock there shall be a surplus, after deducting the money lent together with the expenses of sale, such surplus shall be paid to the proprietors thereof respectively.

19. The holders of the stock of the said Bank shall be chargeable in their private and individual capacity, and shall be holden for the payment and redemption of all bills which may have been issued by the said Corporation, and also for the payment of all debts at any time due from the said Corporation, in proportion to the stock they respectively hold; provided always, that in no case shall any one stockholder be liable to pay a sum exceeding the amount of stock actually then held by him; provided nevertheless, that nothing previously contained shall be construed to exempt the joint stock of the said Corporation from being also liable for and chargeable with the debts and engagements of the same.

20. Every bond, Bank bill, or Bank note, or other instrument by the terms or effect of which the said Corporation may be charged or held liable for the payment of money, shall specially declare in such form as the Board of Directors shall prescribe, that payment shall be made out of the joint funds of the said Corporation provided nevertheless, that nothing herein contained shall be construed to alter, change, or diminish the responsibilities and liabilities imposed on stockholders in their individual capacities by the nineteenth Section of this Act.

21. The total amount of the debts (deposits excepted) which the said Corporation shall at any time owe, whether by bond, bill, or note, or other contract whatsoever, shall not exceed twice the amount of the capital stock actually paid in by the stockholders; and in case of any excess, the Directors under whose administration and management the same shall happen, shall be liable for such excess in their individual and private capacities; provided always, that the lands, tenements, goods, and chattels of the said Corporation shall also be liable for such excess.

22. The Directors shall make half-yearly dividends of all profits, rents, premiums, and interests of the said Corporation, payable at such time and place as the Directors shall appoint, of which they shall give thirty days notice in two Newspapers published in this Province.

23. The books, papers, correspondence, and funds of the said Corporation shall at all times be subject to the inspection of the Directors, but no stockholder not a Director shall inspect the account of any individual with the Corporation.

24. All bills or notes issued by the said Corporation shall be signed by the President for the time being, and countersigned and attested by the Cashier, and shall be printed and made in steel plates; and all bills and notes so signed and countersigned shall be binding on the said Corporation, and payable in specie at the said Bank; provided no note shall be issued by the said Corporation for a less sum than five shillings.

25. The said Corporation shall be liable to pay to any bona fide holder the original amount of any note of the said Bank which shall have been counterfeited or altered in the course of its circulation to a larger amount, notwithstanding such alteration.

26. The said Bank shall be kept and established in the Parish of Chatham, and County of Northumberland, or at such other place as the Board of Directors may think it necessary to remove the said Bank on account of any great emergency for the security thereof.

27. The Directors shall at the general meeting to be held on the first Monday in April in every year, lay before the stockholders for their information an exact and particular statement of the amount of debts due to and by the said Corporation, the amount of Bank notes then in circulation, the amount of gold and silver in hand, and the amount of such debts as are in their opinion bad or doubtful, also the surplus or profit, if any, remaining after deduction of losses and provisions for dividends; which statement shall be signed by the Directors and attested by the Cashier, and a duplicate statement so signed and attested shall be transmitted to the Secretary of the Province for the information of the Governor and the Legislature; provided always, that the

rendering of such statement shall not extend to give any right to the stockholders, not being Directors, to inspect the account of any individual or individuals with the Corporation.

28. No loan shall be made by the said Bank on the pledge of its own stock.

29. Any Joint Committee hereafter to be appointed by the Honorable the Legislative Council and the House of Assembly for the purpose of examining into the proceedings of the said Corporation, shall either during the Session or prorogation of the General Assembly, have free access to all the books and vaults of the same.

30. Any number of stockholders, not less than twelve, who together shall be proprietors of three hundred shares, shall have power at any time, by themselves or their proxies, to call a general meeting of the stockholders for purposes relating to the business of the said Corporation, giving at least thirty days previous notice in two Newspapers published in the Province, and specifying in such notice the time and place of such meeting, with the objects thereof; and the Directors, or any three of them, shall have the like power at any time upon observing the like formalities, to call a general meeting as aforesaid.

31. On any dissolution of the said Corporation, immediate and effectual measures shall be taken by the Directors then in office for closing all the concerns of the said Corporation, and for dividing the capital and profits which may remain among the stockholders, in proportion to their respective interests; and in case any bills issued by the said Corporation shall remain unpaid, the holders of stock in the said Corporation, as well as those who were stockholders at the time of the notice of the said dissolution, which said notice shall take place by a publication of their intention so to do in the Royal Gazette, twelve months previous to the said Corporation being allowed to carry the same into effect, shall be chargeable in their private and individual capacity for the payment and redemption thereof, in proportion to the stock they respectively held or hold, subject however to the proviso mentioned in the nineteenth Section of this Act; provided however, that this liability shall continue for two years only from and after the notice of such dissolution.

32. The aggregate of all the debts due to the said Bank from the Directors thereof, as principals, endorsers, or sureties, shall not at any one time exceed twenty per centum of the capital stock.

33. The Cashier of the said Bank shall semi-annually, that is to say, on the first Monday in December and the first Monday in June in each and every year, make a return in triplicate of the state of the said Bank as it existed at three of the clock in the afternoon of the said days respectively, and shall forthwith transmit the same to the Office of the Secretary of the Province; which return shall specify the amount due from the Bank, designating in distinct columns the several particulars included therein; and shall also specify the resources of the said Bank, designating in distinct columns the several particulars included therein; and the said return shall be made in the following form:—

FORM OF RETURN.

State of the Miramichi Bank on the _____ day of _____ 18____, 3 o'clock, P.M.

DUE FROM BANK.

Bills in circulation,
Net profits on hand,
Balance due to other Banks,
Cash deposited, including all sums whatever due from the Bank not bearing interest, its bills in circulation, profits, and balances due to other Banks excepted,
Cash deposited bearing interest,
Total amount due from the Bank,

RESOURCES OF BANK.

Gold, silver, and other coined metals in its banking house,
Real estate,
Bills of other Banks incorporated in this Province,
Balances due from other Banks,
Amount of all debts due, including notes, bills of exchange, and all stock and funded debts of every description, except the balances due from other Banks,
Total amount of the resources of the Bank,
Date and amount of the last dividend, and when declared,
Amount of reserved profits at the time of declaring the last dividend,
Amount of debts due and not paid, and considered doubtful,

Which return shall be signed by the Cashier of said Bank, who shall make oath or affirmation before some Magistrate qualified to administer oaths, to the truth of the said return according to the best of his knowledge and belief; and the Cashier of said Bank shall also make return under oath, whenever required by the Legislature, of the names of the stockholders, and the amount of stock owned by each; and a majority of the Directors of said Bank shall certify and make oath or affirmation before the same Magistrate as the said Cashier, that the books of the said Bank indicate the state of facts so returned by their Cashier, and that they have full confidence in the truth of the return so made by him; and it shall be the duty of the Secretary of the Province annually to lay before the Legislature of this Province, as soon after the opening of any Session thereof as practicable, one of such respective returns as he may have received since the then last previous Session.

34. The Cashier or acting Cashier for the time being shall on each and every discount day furnish a true list to the President or Chairman of the said Bank of all delinquent promisors, endorsers and sureties, made up to three o'clock on the day preceding the discount day, which list shall be called a Delinquent Sheet; and it shall be the duty of the President or Chairman on each and every discount day as aforesaid, to read the name or names contained in such delinquent sheet to the Board of Directors, and in case the name of any Director shall appear in such delinquent sheet, either as promisor, endorser, or surety, it is hereby declared illegal for such Director to sit at the Board, or take any part in the management of the affairs of the said Bank during the continuance of such delinquency.

35. In the event of any Director continuing a delinquent as aforesaid for ninety consecutive days at any one time, such continued delinquency shall disqualify such Director from holding his seat, and it shall be the duty of the President and other Directors forthwith to proceed in filling up the vacancy in the manner prescribed in the fourteenth Section of this Act, as in the case of death or absence from the Province.

36. No action shall be brought or maintained upon any Bank bill or Bank note which shall be issued by the said Corporation, before such bill or note shall have been presented at the Bank for payment, and default in payment shall thereupon take place.

37. All and every the shares in the capital stock of the said Bank, and all the profits and advantages of such shares respectively, shall be deemed and considered to be of the nature of and shall be personal estate, and transmissible as such accordingly.

38. The shares in the capital stock of the said Bank shall be liable to be seized and taken in execution, and sold in like manner with other personal property; provided always, that the Sheriff or other officer executing such execution, shall leave a copy of such execution, certified by the Sheriff or his Deputy, with the Cashier of the said Bank; and the shares in the capital stock of the said Bank so liable to such execution shall be deemed to be seized in execution when such copy is so left; and the sale shall be made within thirty days after such seizure, and on production of a Bill of Sale from the Sheriff, the Cashier of the said Bank shall transfer the number of shares sold under such execution to the purchaser or purchasers thereof, and such transfer shall be valid and effectual, notwithstanding there may be any debt due to the said Bank from the person or persons whose shares may be seized and sold; provided also, that the Cashier shall, upon the exhibiting to him of such certified copy of the execution be bound to give to such Sheriff or other officer, a certificate of the number of shares in the said capital stock held by the judgment debtor named in such execution, and the shares of such judgment debtor in the said capital stock shall be bound by such execution only from the time when such copy of the execution shall be so left with the Cashier.

39. And in case it should hereafter be found necessary at any time after the payment in and certificate of such first mentioned capital, and within seven years from the time of passing this Act, to increase the capital stock of the said Bank, the same may be effected by resolution of the Directors, or the major part of them for the time being, sanctioned and approved of by a majority of the votes of the shareholders present in person or by proxy, at a general meeting convened after special notice of the same and its intended object, such additional capital stock may be raised by the issue of additional shares severally of the value before mentioned; provided that the whole of such additional stock shall not exceed thirty thousand pounds, thereby making the utmost amount of capital stock of the said Bank fifty thousand pounds, and in the whole two thousand shares.

40. Such additional shares shall be sold at public auction in separate lots of four shares each, as follows, that is to say, five thousand pounds, making two hundred shares, at such time as the

Directors shall appoint; and the residue of such increased additional capital at such times as the Directors may from time to time determine, but not less than five thousand pounds to be sold at any one time.

41. The said Directors shall give at least forty days notice of the time of sale of any such increased stock in some Newspaper published in this Province, in which notice shall be specified the time when such additional stock, with the advance or premium thereon, will be required to be paid into the said Bank.

42. The whole of such advance or premium, (if any) first deducting the charges of sale, shall be divided in equal proportions among the shares in the stock of such Bank, as well the old as the new stock, and such dividend of the said premium shall be declared and paid by the Directors immediately after the payment into the Bank of the purchase money of the said additional shares; and Banking operations may take place upon each respective amount of such additional stock sold as aforesaid, when the Directors, or a majority of them, together with the Cashier of the said Bank, shall have signed and verified by oath and filed in the Office of the Secretary of the Province a certificate that such amount of capital stock at any time called in has actually been paid into the said Bank in current gold and silver coins of the Province, and not before.

43. The said additional shares shall be subject to all the rules, regulations, and provisions to which the original stock is subject, or may hereafter be subject by any law of this Province.

44. This Act shall continue and be in force until the first day of May which will be in the year of our Lord one thousand eight hundred and eighty.