

C H A P. XXII.

An Act vesting in the hands of certain Commissioners therein named, all the Stock, Debts, Bonds, and Property of the pretended Bank of Upper-Canada, lately established at Kingston, for the benefit of the Creditors of that Institution.

[Passed 19th March, 1823.]

WHEREAS, Benjamin Whitney, Smith Bartlet, and others, some time in ^{Preamble:} the year of our Lord one thousand eight hundred and nineteen, did set on foot and establish a certain Association under the style and title of "The President, Directors, and Company of the Bank of Upper Canada," and procured subscriptions thereto, to a considerable amount, for the avowed purpose of raising a joint and transferable Stock, upon the credit whereof to issue Bank Bills, and carry on the business of Banking at the town of Kingston in the Midland District of this Province; and whereas the said Association having stopped payment and declared itself insolvent, whereby a great portion of the inhabitants of this Province, holding their said Bills or Notes, and who have taken Stock in the said Bank, as well as others, have been defrauded of the same, and are likely to be without redress, unless some Legislative remedy should be provided for their relief; Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled 'An Act for making more effectual provision for the Government of the Province of Quebec in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That from and after the passing of this Act, the honorable George Herkimer Markland, John Kerby, Esquire, and John Macaulay, Esquire, shall be and they are hereby appointed Commissioners and Trustees, to be styled the Board for settling the affairs of the pretended Bank of Upper Canada, lately established at Kingston in this Province, in whom shall be vested all the Estate, both real and personal. Bonds, Bills, Notes, and other Securities, Stock, Rights, Credits, and Effects of the said Institution so established, as aforesaid, and which Board, by its name and style aforesaid, shall have full power and authority to ask, demand, sue for, recover, and receive, and notwithstanding a further day may be given for the payment thereof, and from all persons whatsoever, who are indebted to the said Association, or to any person or persons to its use, all the demands due or growing due thereto, and to sell or dispose of, either at private sale or public auction, all such lands, tenements, and hereditaments, goods, chattels, and effects, as may come into their hands by virtue of this Act, and to apply the same, after the expenses of carrying this Act into effect, in discharge of

Board for settling the affairs of the pretended Bank of Upper Canada established.

Its powers in recovering debts and applying sums received:

Power of filling vacancies in the Board.

such certificates as shall be granted to persons having claims or demands; *Provided always*, that if it shall so happen that the whole or any of the persons herein named as Commissioners and Trustees, shall be unwilling to act in such Commission and Trust, or that any vacancy shall occur therein, then and in such case the Honorable George Herkimer Markland, John Kerby, and John Macaulay, or any two of them, shall, and they are hereby authorised and required to nominate and appoint at their discretion a person or persons to act as Commissioner or Commissioners, as aforesaid; and *provided always*, that in any subsequent vacancy the acting Commissioners, or a majority of them, shall have power, and they are hereby required to appoint a fit and discreet person to supply such vacancy.

Board to hear and determine claims.

II. *And be it further enacted by the authority aforesaid*, That the said Commissioners, or the majority of them, shall have full power and authority to hear and determine all claims and demands against the said Bank, as well by the Stockholders for the amount of the Stock originally subscribed for or purchased by them, whether declared forfeited by the rules of the said Bank or not, and holders of the Notes of the said Bank for the value thereof, as by other creditors of the said Association, and to grant the claimants certificates of the amount so found due to them, which certificates shall bear interest from the date thereof, and be paid by the said Board out of any monies that shall come into their hands by virtue of this Act, *Provided always*, That no certificates that may be granted to the said Benjamin Whitney, Smith Bartlet, or either of them, or to any other Director or Officer, or Stockholder of the said Association shall be paid until the certificates granted to other persons shall have been first paid and discharged.

Board empowered to bring before them and examine all persons connected with the Bank, and to call for their Books and Papers.

III. *And be it further enacted by the authority aforesaid*, That the said Board shall have full power and authority to summon or bring before them, by warrant or otherwise, as may be deemed most expedient, all or any of the Directors and other Officers of the said Company, and to require them to produce all the Books, Papers and other documents of the said Bank, and to examine them touching the affairs of the said Bank, and to reduce their examination to writing to be filed amongst the records of the said Board, and also to commit the said persons or any of them, or bind them in recognizances, either alone or with sureties, according as the Board shall deem expedient, for farther examination; and also, in case they or any of them shall refuse to make a full discovery of the affairs of the said Bank, or to produce any books, papers, or documents relating thereto in their possession, power or control, when thereunto required by the said Board, he or they so refusing, shall stand committed to the common Gaol of the District where the Board shall sit until he or they shall comply therewith.

And upon refusal to give evidence, &c. to commit them to Gaol.

Board to appoint a Clerk.

IV. *And be it further enacted by the authority aforesaid*, That the said Board shall appoint a Clerk who shall sign all Warrants, Certificates and other papers by order of the Board, who shall receive such a stipend while employed as the said Board shall deem proper, to be paid out of such monies as shall come into their hands by virtue of this Act.

Days and places of meeting to be published.

V. *And be it further enacted by the authority aforesaid*. That the said Board shall from time to time appoint certain days and places, when and where they will sit for the hearing of claims, and shall publish the same in such newspapers as they shall deem expedient.

VI. *And be it further enacted by the authority aforesaid,* That the said Board, their Clerk, and all Commissioners for taking affidavits in the Court of King's Bench shall have power to administer Oaths to all persons required to be examined by virtue of this Act, and that all and every person or persons who shall forswear himself or themselves in any affidavit or examination taken in pursuance of this Act, shall upon conviction, incur all the pains and penalties which may be inflicted upon persons guilty of wilful and corrupt perjury by the Laws of this Province.

Persons authorised to administer Oaths.

Penalty of Perjury inflicted for taking false Oaths.

VII. *And be it further enacted by the authority aforesaid,* That the said Board shall keep an account of all the Notes presented to them for payment, and for which they shall give such certificates as aforesaid, and shall upon giving the said certificates, write upon the said Notes in red ink, "Cancelled and certified by the Board," and shall deposit the same with the records of the Board until the affairs of the said Bank shall be fully settled and adjusted.

Board to keep an account of all Notes redeemed by them.

VI I. *And be it further enacted by the authority aforesaid.* That if the said Board shall find it necessary to appropriate the whole or any part of the share or shares of the profit or stock, found by them to belong to the said Benjamin Whitney, Smith Bartlet, or any other Officer or Director, or Stockholder of the said pretended Bank, they, the said Benjamin Whitney, Smith Bartlet, or other Officer or Director, or Stockholder, or their respective executors or administrators, shall and may severally and respectively have and maintain an action or actions at Law, as for money had and received, the one against the other, his executors or administrators, for any loss sustained by the party bringing such action against the other by whose fraud, defalcation, abstraction or misapplication of the funds of the said Bank, the Board aforesaid may so find it necessary to make such appropriation.

Parties concerned in the said Bank authorised to bring actions one against the other.

IX. *And be it further enacted by the authority aforesaid,* That the Commissioners aforesaid, and all such Commissioners as may be appointed under and by virtue of this Act, shall furnish an annual account and statement of the affairs of the said Bank and their proceedings therein, to be laid before the Legislature of this Province, the first day of every Session, till the final settlement and closure of the said affairs by this Act committed to them.

Board to furnish an annual account of their proceedings to be laid before the Legislature.

X. *And be it further enacted by the authority aforesaid,* That all sale, conveyance or transfer whatsoever, of the private property or estates of the said Benjamin Whitney, Smith Bartlet, John William Ferguson, Christopher Alexander Hagerman, Henry Murney, John M'Lean, Thomas Dalton, Archibald Richmond, John Cumming, Neil M'Leod, or any or either of them, heretofore made in contemplation of the insolvency or failure of the said Bank, or in contemplation of evading any remedies to be provided by law for the security of the public against losses by the said Institution, are hereby declared to be fraudulent and void, and of none effect; and that no sale, conveyance, or transfer, hereafter to be made by the said Benjamin Whitney, Smith Bartlet, John M. Ferguson, Christopher Alexander Hagerman, Henry Murney, John M'Lean, Thomas Dalton, Archibald Richmond, John Cumming and Neil M'Leod, or any or either of them, or their respective property or estates, shall be good or valid in law, till the final adjustment of the said affairs of the said Bank, except with the consent of the said Commissioners or a majority of them, by instrument under their hands and seals, giving and express-

Sales of the estates of the Directors prohibited until affairs of the Bank are closed.

This Act not to affect remedies under the 14th Geo. 2d. ch. 37.

ing such consent; *Provided nevertheless*, That nothing herein contained shall extend or be construed to extend to repeal any provisions or remedies made and provided in an Act of the British Parliament passed in the fourteenth year of the Reign of George the Second, chapter thirty-seven, entitled "An Act for restraining and preventing several unwarrantable schemes and undertakings in his Majesty's Colonies and Plantations in America."

C H A P. XXIII.

AN Act to Provide for the Completion of the Gaol and Court-House, in the London District of this Province.

[Passed 19th March, 1823.]

Preamble.

WHEREAS it appears by the Petition of the Magistrates of the London District, that the funds applied to the building of a Gaol and Court-house, in and for the said District, are insufficient for completing the said Gaol and Court-House: and whereas it is expedient to authorise the said Magistrates of the said District to raise a loan in aid of the said funds; Be it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Upper Canada, constituted and appointed by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, entitled 'An Act for making more effectual provision for the Government of the Province of Quebec, in North America, and to make further provision for the Government of the said Province,'" and by the authority of the same, That it shall and may be lawful for the Justices of the Peace in and for the said District, in General Quarter Sessions assembled, in April next, by an order of Court, to authorise and direct the Treasurer of the said district to raise by loan from such person or persons, bodies politic or corporate, who may be willing to lend the same on the credit of the District, a sum not exceeding one thousand pounds, to be applied, together with the funds then remaining in the hands of the said Treasurer, for the use of the said District, and unappropriated, in the building of the said Gaol and Court-House.

Magistrates may raise by loan a sum not exceeding £1000, in aid of funds to finish Gaol and Court-House in the London District

Treasurer to apply a certain sum annually in discharge of the loan.

II. Provided also, and be it further enacted by the authority aforesaid, That the Treasurer of the said District for the time being, shall annually, until the loan so raised, with the interest accruing thereon, shall be paid and discharged, apply towards the payment of the same a sum not less than one hundred and fifty pounds, from and out of the rates and assessments coming