

C A P . X C V .

An Act to amend An Act to regulate the Inspection of Pot and Pearl Ashes.

[Assented to 30th May, 1855.]

Preamble.

18 V. c. 11.

WHEREAS it is expedient to amend an Act of the Legislature of the Province of Canada, passed in the present Session thereof, intituled, *An Act to regulate the Inspection of Pot and Pearl Ashes*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows :

Section 21 amended.

I. The words " or packer," in the twenty-first section of the said Act, shall be and they are hereby repealed ; and the said twenty-first section shall hereafter be read as if the said words " or packer" had never been inserted therein.

Penalty on unauthorized persons acting as Inspectors.

II. Any person not being duly authorized under the said Act, who shall in any manner whatever assume the title or office of Inspector of Pot or Pearl Ashes, shall exercise any of the duties of such Inspector, or shall issue any bill, certificate or declaration establishing or purporting to establish the quality of any Pot Ashes or Pearl Ashes, shall, for every such offence, incur a penalty of Five Pounds currency, which may be recovered in the manner prescribed by the twenty-second section of the said Act, or by summary conviction before any Justice of the Peace, who, in default of immediate payment, may issue a Warrant of Distress, or commit the offender to the common gaol until such penalty be paid.

Interpretation.

III. All the provisions of the said Act shall apply to this Act, in so far as they are not inconsistent with the provisions hereof.

C A P . X C V I .

An Act to regulate Savings Banks, and to repeal the Act now in force for that purpose.

[Assented to 30th May, 1855.]

Preamble.

WHEREAS experience has proved that the Act now in force for regulating Savings Banks do not afford that security to Depositors to which they are entitled at the hands of the Legislature, and it is therefore expedient to repeal the said Act, and to make better provisions instead thereof: Be it therefore enacted by the Queen's Most Excellent Majesty, by and

and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows:

I. The Act passed in the session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to encourage the establishment of and regulate Savings Banks in this Province*, shall be and the same is hereby repealed, except in so far only as it is hereinafter otherwise provided, and except with regard to any penalty or forfeiture incurred under it, with regard to which it shall remain in force.

Act 4 & 5 V. \ c. 32, repealed.

Exception.

II. It shall be lawful for any number of persons to associate themselves for the purpose of establishing a Savings Bank in any one place in this Province under this Act, and such persons shall execute an Instrument before Notaries, if the Bank is to be in Lower Canada, and under their hands and seals, and in duplicate, if the Bank is to be in Upper Canada, which Instrument shall set forth:

Mode in which any number of persons may become incorporated as a Savings Bank.

The Corporate name to be taken by the Institution, of which the words "Savings Bank" shall always form part;

What must be inserted in the Instrument of Association.

The place at which its business is to be carried on;

Its Capital Stock which shall in no case be less than one hundred thousand pounds currency; the number of Shares into which such Stock is to be divided, and the amount of each Share, which shall in no case be less than one hundred pounds currency; the number of shares taken by each of the persons executing such Instrument, and the names, residence, profession, calling or addition of each of such persons; the persons who shall be the Directors of the Institution until the first election of Directors, and which of them shall be President, but no person shall be named as a Director who shall not hold at least five hundred pounds, of the Stock of the Institution;

Further provisions in such Instrument:

Stock.

Shares.

Stockholders.

Directors.

President.

The period during which such Institution is to continue, which shall not be less than five years, nor more than thirty years, and shall be made to end on the thirtieth day of April in some year to be named in such Instrument;

Duration of Bank.

Such further provisions as to the working of the Institution and the management of its affairs and business, in matters not provided for by this Act, as the persons executing such Instrument may think expedient, which provisions, not being inconsistent with the letter or spirit of this Act or the laws of this Province,

Further provisions for its management.

Province, shall be fundamental Rules of the Institution, and shall not be altered; and any such provision which shall be inconsistent with the letter or spirit of this Act, or with the laws of this Province, shall be void, but shall not affect the validity of the Instrument of Association in other respects.

Proviso :
Stockholders
to justify their
sufficiency on
oath.

Provided always, that no person shall be deemed a Shareholder in any such Savings Bank, nor shall his name be entered in list of Shareholders as one of them, or the stock he may have agreed to take be reckoned as part of the Capital Stock of any such Savings Bank, until he shall have justified his sufficiency on oath or affirmation in the following form, before some Judge of one of the Superior Courts of Law in this Province, or some County or Circuit Judge, who is hereby empowered to administer such oath :

The oath.

"I, A. B. solemnly swear (or affirm) that I am now possessed of and own to and for my own use and benefit, and over and above all my just debts, property of the value of (*here insert the amount of stock of which the Defendant is the subscriber or transferee*)."

(Signature) A. B.

Attestation
and deposit of
oath.

Which oath or affirmation shall be signed by the Deponent and attested by such Judge, who shall deliver a certificate thereof to the party making the same, and the original shall be kept among the Records of the Court of which he is a Judge; and no transfer of Stock shall be valid so as to relieve the party making it from liability to any Depositor, until such oath or affirmation shall be so made.

Deposit of such
Instrument of
record, and of
the certificates
of the Receiver
General rela-
tive thereto.

III. If such Instrument relate to a Savings Bank in Lower Canada, a Notarial Copy thereof shall be deposited of record in the office of the Prothonotary of the Superior Court for the District in which the Bank to which it relates is to be established,—and if such Instrument relate to a Savings Bank in Upper Canada, a duplicate thereof shall be deposited of record in the office of the Clerk of the County Court of the County or of the United Counties within which the Bank to which it relates is to be established, the execution thereof by the several parties thereto being attested on oath by at least one witness before the said Clerk; and every such Instrument so deposited of record, as well as the Certificates of the Receiver General of the deposit or withdrawal of money or Debentures as hereinafter provided, shall be open to the inspection of any person during office hours, on payment of a fee of one shilling to the Officer having the custody thereof, who shall furnish any person with a certified copy thereof, on payment of a fee equal to six pence currency, for each hundred words in such copy, and the certificate thereto; and any such copy so certified, shall be *prima facie* evidence of such Instrument, and of the contents thereof, without proof of the signature of the Officer certifying

Copies of the
same and their
effect.

certifying such Copy ; and a certified copy of such Instrument and of the Certificates of the Receiver General relating to the same Bank, shall be constantly kept at the place of business of the Bank to which they relate, open to the inspection of all depositors therein.

Certified copy to be always kept open for inspection.

IV. Upon the deposit of any such Instrument with the proper Prothonotary or Clerk as aforesaid, and the deposit with the Receiver General of the amount hereinafter mentioned, the parties thereto, and their successors, shall, during the term herein limited, be a body public and corporate by the name therein taken, by which name they may sue and be sued, and shall have and exercise the powers vested in corporate bodies by the Interpretation Act, except in so far as they are modified by this Act, and all such powers as may be necessary for fully and conveniently carrying out the provisions of this Act.

Incorporation and general corporate powers.

V. Before any Savings Bank intended to be established under this Act shall be entitled to the benefit thereof, the Directors of such Bank shall deposit with the Receiver General of this Province, a certified copy of the Instrument of Association, and a sum not less than one eighth nor more than one fourth of the Capital of the Bank, in money or in Debentures receivable under the laws regulating the business of Banking, in deposit for registered Bank Notes, or partly in money and partly in such Debentures, the value of such Debentures being reckoned at par, and the Receiver General shall grant a Certificate of such deposit in duplicate, one duplicate shall be deposited in the office of the Prothonotary or Clerk in whose office the Instrument of Association of the Bank is deposited, and the other shall remain in the office of the Bank ; and the money or Debentures, or both, so deposited, shall remain in the hands of the Receiver General, subject to the provisions hereinafter made, as security for the repayment to the Depositors in such Bank, of the sums deposited by them, with the interest due thereon ; but the interest on such Debentures and interest on the money so deposited, at the rate allowed at the same period on the special Debentures hereinafter mentioned, shall be paid over by the Receiver General to the Bank, on behalf whereof such money or Debentures were deposited, except in the case hereinafter provided for.

Deposit of a certain sum in money or Debentures with the Receiver General as security in favor of the Depositors in the Bank.

Interest on Debentures to be payable to the Bank.

VI. The sum so deposited by the Directors of any Savings Bank established under this Act, may, if originally less than one fourth the Capital of the Bank, be increased at any time by one or more deposits to any sum not exceeding one fourth of the said Capital, or may be diminished to any sum not less than one eighth of the said Capital, by the Bank's withdrawing one or more sums, after giving three months' notice to the Receiver General of the intention to withdraw the same : Provided always, *First*, that the sum deposited or withdrawn at any one time shall not be less than five thousand pounds ; *Secondly*, that

Power to increase or diminish the sum so deposited.

Proviso.

Proviso.

that

Proviso.

Certificates of withdrawal of deposits to be made public.

that no sum shall be withdrawn until the Receiver General shall have been satisfied that all the requirements of this Act are so far complied with, as to authorize such withdrawal: and *Thirdly*, that a certificate of the deposit of any sum under this section shall be granted in duplicate by the Receiver General to the Bank, and such duplicates shall be deposited in the same manner as the duplicates of the original certificate of deposit,—and that a certificate of the withdrawal of any sum, shall in like manner be granted in duplicate, and one duplicate shall be delivered to the Bank to remain in the Office thereof, and the other shall be transmitted by the Receiver General to the Prothonotary or Clerk in whose Office the Instrument of Association of the Bank is deposited, and shall there remain of record, to the end that all persons may at any time ascertain what sum belonging to the Bank is in the hands of the Receiver General.

Assignment or lien may be granted on moneys in hands of Receiver General.

VII. It shall always be lawful for any Savings Bank established under this Act, to assign or grant a lien upon the money or Debentures in the hands of the Receiver General and belonging to such Bank, but such assignment or lien shall be subject to the rights of Depositors in the Bank, and shall take effect so far and so far only as such money or Debentures may be liable to be withdrawn by and delivered to the Bank, in which case the Receiver General being duly notified of such assignment or lien, shall deliver the money or Debentures to the party holding such lien or assignment, instead of delivering the same to the Bank.

When the Bank may commence business.

Rate of interest to be allowed.

Proviso: sum due to Depositors limited.

VIII. Any Savings Bank which shall have complied with the foregoing requirements of this Act, may forthwith thereafter commence its business as such, and may receive deposits from any persons or parties whatever, so as no deposit by any one person or party shall at any one time, exceed the sum of five hundred pounds, and may allow to such Depositors such rate of interest as shall be from time to time fixed by the Governor in Council, and no more, subject to such regulations as to the deposit and withdrawal of moneys by Depositors as may from time to time be made by the By-laws of the Bank: Provided always, that the amount due to Depositors by any Savings Bank at any one time, shall never exceed six times the sum belonging to such Bank deposited as aforesaid in the hands of the Receiver General, nor shall it ever exceed the Capital of the Bank.

Rate of interest to be fixed by Governor in Council. It may be altered.

IX. The rate of interest to be allowed to Depositors in any Savings Bank under this Act, shall be such as shall be from time to time fixed by order of the Governor in Council, but such rate may at any time be altered by any order in Council subsequently made and published in the *Canada Gazette*, at least six months before such alteration is to take effect.

In what funds only moneys

X. The moneys received in deposit by any Savings Bank established under this Act may be invested by such Bank in any

any Debentures which might, under the laws regulating the business of Banking be received by the Receiver General in deposit for registered Bank Notes, or in the manner mentioned in the next following section, and the said moneys shall not be invested, lent, dealt with, or used in any other manner or way whatever, except only that they may be deposited in any of the Chartered Banks of this Province, at interest or without interest, but subject always to be at any time drawn out by check and without previous notice.

deposited in any Savings Bank may be invested.

Exception.

XI. It shall be lawful for the Receiver General directly, or through any Agent he may appoint for the purpose, to receive from any Savings Bank established under this Act, any sum of money arising from deposits in such Bank and not less than one hundred pounds at one time, and to grant for the same, Special Debentures for not less than fifty pounds each, bearing interest payable half yearly at a rate exceeding by two per cent. the rate of interest then fixed by order in Council, as that to be allowed by Savings Banks under this Act to Depositors; and such Debentures may, in the discretion of the Receiver General, or in conformity with such orders as he shall from time to time receive from the Governor, be made payable solely to the Bank, and not transferable.

Receiver General may grant Special Debentures to Savings Bank for money arising from deposits.

Rate of interest thereon, &c.

XII. On the first Monday in May in each year, the Stockholders of each Savings Bank then established under this Act, shall hold a General Meeting at the Office of the Bank, and shall then and there elect five persons, being Stockholders in the Bank to the extent of at least one thousand pounds each, to be Directors of the Bank, in place of the Directors then in office, who shall go out of office immediately upon the close of such election, unless re-elected (as they may be) thereat: but if from any cause the meeting shall not be held on the day hereby appointed, or five Directors shall not be elected thereat, the Directors in office, immediately before such day, shall remain in office until another General Meeting shall be held and five Directors elected thereat, and a General Meeting may be held for this purpose at any time under the By-laws in force in that behalf, and if any vacancy shall occur in the office of Director, such vacancy shall be filled up as soon as conveniently may be, by the remaining Directors, who shall appoint some duly qualified Stockholder to fill such vacancy until the next election of Directors: but no such vacancy shall affect the validity of the acts of the remaining Directors or of any *quorum* thereof.

General Meeting for election of Directors.

Failure of election, how remedied.

Vacancies.

Vacancies, how filled. Not to affect validity of acts:

XIII. At any General Meeting of the Stockholders of any Savings Bank established under this Act, each Shareholder shall have one vote for every share which he shall have held during at least three months before such meeting: and any Shareholder may appear and vote by proxy, such proxy being himself a Shareholder qualified to vote at the meeting; and all questions submitted to any such General Meeting shall be

Votes at General Meetings. One for each Share.

Proxies allowed.
Casting vote.
President.

be decided by the majority of the votes the Stockholders voting thereat, either in person or by proxy, and the person presiding at any such meeting shall have a casting vote in case of an equal division of the votes, otherwise he shall not vote : the President of the Bank, if present, shall preside at such meeting, or in his absence, any Director or Stockholder present thereat, who may be chosen to preside by a majority of the Stockholders then present.

Directors may call General Meetings.
May make calls on Stock.

XIV. Unless and until it shall be otherwise provided by the By-laws of any Savings Bank established under this Act, the Directors thereof shall have full power to call General Meetings of the Stockholders thereof for such purposes, in such manner and at such times as they shall think it expedient so to do ; and they shall also have power to make calls on the Stockholders of the Bank for instalments on the shares held by them respectively, so as no call shall exceed ten per cent. on the stock so held, nor shall be payable at a less interval than two months from the time when the last call was payable ; but this limitation as to the amount of calls and the interval between them, shall not apply to or impair the effect of any clause in the Instrument of Association by which the parties thereto shall have bound themselves, to pay any amount of their respective shares at any time, but such clause shall have its full effect against such parties, and those who may lawfully hold their stock as their representatives or assigns, or as the representatives or assigns of their representatives or assigns ; and the amount of any call or calls lawfully made, and of any sum so agreed to be paid, may, if not paid when due, be recovered with interest by the Directors, in the name of the Bank, in any Court having jurisdiction to the amount ; and in such action it shall be sufficient only to allege or prove the agreement in the Instrument of Association, or that the calls were made under this Act, and that the Defendant is the holder of a share or shares in respect of which the amount sued for is due, without alleging or proving any other matter or thing whatever, and the evidence of any one Officer of the Bank, cognizant of any fact required to be proved, shall be sufficient proof thereof ; Provided always, that no more than one fourth of the Capital Stock of any such Bank shall be called in at any time, except only for the purpose of enabling the Bank to meet claims of Depositors upon it which it could not meet without such call, and the fact that the call is necessary for such purpose, shall be alleged in the resolution or order of the Directors directing such call to be made, and such allegation shall be evidence of such fact.

Suits for calls, and what must be alleged and proved to maintain them.

Proviso.
Calls limited.
Exception.

President.
Questions before Directors, how decided.

XV. The Directors may elect one of their number to be President of the Bank, and such President shall preside at all meetings of the Directors at which he shall be present : in his absence any Director present may be appointed to preside *pro tempore* ; all questions and matters before the Directors at any meeting

meeting shall be decided by the majority of votes of the Directors present thereat, and the President or person presiding at any meeting of Directors, shall vote as a Director, but shall not have another or casting vote: if the votes be equally divided, the question shall be held to be decided in the negative; Any three Directors shall be a quorum, and any meeting at which a quorum shall be present, may do any thing which could be done by a meeting at which all the Directors were present, except such things as shall be required (as they may be) by the By-laws to be done at a meeting at which a larger number of the Directors, or all of them, shall be present.

Majority to decide.
Casting vote.
Ties.

Quorum of Directors.

XVI. The Stockholders of any Savings Bank established under this Act, may at any General Meeting make By-laws for the government of the Stockholders, Directors, Officers and Servants of the Bank and of the Depositors therein,—with respect to the mode of calling and holding General and Special Meetings of the Stockholders, and the notice to be given of such meetings and of the matters and things to be done or considered thereat,—the form of proxies and other matters relative to proxies,—the transfer of shares and the manner in which such transfer may be validly effected, and the manner in which the transmission of shares by bequest or intestacy, marriage, bankruptcy, or any other mode than formal transfers in the manner provided by such By-laws, shall be certified to the Bank before it shall be bound by such transmission,—the person who shall have the right of voting upon any share or shares held by minors, or other persons under legal disability to act for themselves,—the powers and duties to be exercised and performed by the Directors or by the President, or any of them, or by any Officer or Officers of the Bank,—the mode in which deeds and instruments intended to bind the Bank, and under its Corporate Seal, shall be executed on its behalf, and by whom the Corporate Seal shall be affixed thereto, and what instruments or documents shall bind the Bank without being under its Corporate Seal, the form thereof, and by whom they shall be signed or countersigned,—in what manner and subject to what conditions, moneys deposited in the Bank may be withdrawn by the Depositors, and under what circumstances and in what manner the Bank may require Depositors to withdraw such moneys, on pain of being allowed no interest thereon, after the time at which they shall be so required to withdraw the same; and generally for all and every purpose for which it may be requisite to make provision for the convenient management and carrying on of the affairs and business of the Bank, and with regard to which no express provision is made by this Act, or by the Instrument of Association of such Bank; and by any such By-law any power vested in the Bank, except the power of making By-laws, may be deputed to any President, Director or Officer thereof; and by any such By-law and penalty, not exceeding ten pounds, may be imposed for contravention thereof, and any penalty imposed by

Power to make By-laws for certain purposes.

Meetings.

Proxies.
Transfer of Shares.

Shares of Minors.

Directors.

President.
Officers.
Deeds of the Corporation.

Deposits.

General purposes.

Deputing powers.

Imposing penalties.

any

any such By-law may, when incurred, be recovered by the Bank and to the use thereof, as a debt due to such Bank ; but no such By-laws shall be inconsistent with the provisions of this Act, or with the Instrument of Association of the Bank to which it shall relate, and so much of any By-law as shall be so inconsistent, shall be *ipso facto* null and void : and the Stockholders may at any General Meeting, amend, alter or repeal any By-law made at any former meeting, but the enactment, repeal or alteration of any By-law affecting Depositors, shall not apply to any deposit made before the passing thereof, or before it shall be published in the manner hereinafter described : Provided always, that a printed copy of By-laws then in force shall be kept constantly posted up in some conspicuous part of the office where deposits are received ; and no such By-law shall bind any person other than the Stockholders, Directors, Officers and Servants of the Bank as such, until it shall have been so posted up during at least one clear day.

Proviso.

Amending By-laws.

Proviso : copy of By-laws to be kept open.

By-laws, how proved.

XVII. Any copy of the By-laws of any Savings Bank established under this Act or of any of such By-laws, under the Seal of the Bank and the Signature of the President, or of any person authorized to affix such Seal thereto, shall be legal evidence of such By-laws or By-law ; and any copy of any such By-laws or By-law which shall be proved to have been compared with the copy thereof posted up as aforesaid, shall be *prima facie* evidence of such By-law or By-laws, when produced by any party other than the Bank.

Shares to be personalty, and how transferable, &c.

XVIII. The shares in the Stock of any Savings Bank under this Act shall be personal property, and transferable as such, and shall be transferable in such manner, and subject to such regulations as shall be provided by the Instrument of Association of the Bank or by the By-laws thereof ; and the owner of any share shall have the rights and liabilities of the original holder thereof ; but no share shall be divided, and if any share be held by several persons jointly, one of such persons shall be appointed by the others to vote thereon, receive dividends, and do all other things that may be required to be done in respect thereof, and his power to that effect shall be lodged with the Bank ; and the Bank shall not be bound to see to the execution of any Trust to which any share may be subject, or to the application of any money received by the Trustee in respect of such share, and the party holding a share on trust, shall, as regards the Bank, be deemed the owner thereof ; and it may be provided either by the Instrument of Association or by the By-laws, that no transfer shall take effect unless and until it be approved by the Directors of the Bank.

Shares held by more than one party.

Bank not bound to see to trusts.

Approval of transfers may be made requisite.

Liability of persons transferring Stock to continue for a certain time.

XIX. Notwithstanding the transfer of any share in the Stock of any Savings Bank established under this Act, the party transferring the same shall, nevertheless, remain responsible and liable in all respects as regards all liabilities of the Bank incurred before such transfer, to the same extent and in the same manner

manner to and in which he would have been responsible and liable if such transfer had not been made, provided legal proceedings shall be commenced to enforce such responsibility and liability within eighteen months from the date of such transfer, and saving always the recourse of the party transferring such share, against the party to whom it shall have been transferred, and the party to whom it shall be made, shall, by accepting the same, become subject to all the liabilities of the Shareholder transferring such share, in respect thereof.

Recourse of transferee saved.

XX. Each Shareholder in any Savings Bank established under this Act, shall be responsible and liable for the debts, obligations and liabilities of the Bank to the extent, and not beyond the extent, of the amount of his shares therein, less the amount actually paid in upon such shares; but in the event of the failure of the Bank, no more of the Capital Stock thereof shall be held to have been paid in within the meaning of this Section, than shall then be in the hands of the Receiver General, in money or Debentures, or both, reckoning such Debentures at par as aforesaid.

Extent of liability of Shareholders.

XXI. There shall be at all times posted up in the office or places where deposits in any Savings Bank established under this Act are received, a correct list of the Directors of and the Shareholders in the Bank, shewing their respective names, residences and additions, and the number and the amount of the shares held by each, and it shall be the duty of the Directors to cause such list to be corrected from time to time; and any Depositor shall be allowed to take or to have a copy of such list taken at any time during Office hours, and a copy of such list sworn to by any competent witness, shall be presumptive evidence of such list and of the facts therein stated.

Correct lists of Directors and Stockholders to be posted up in office of the Bank.

XXII. The books, accounts and papers of any Savings Bank established under this Act shall always be open to the inspection of the Receiver General, or of any person whom he shall depute to examine the same, and shall be kept in regular form, and according to some tried and approved plan, and the Receiver General may suggest any improvement in the mode of keeping the same, and the Directors of the Bank with respect to which such suggestion shall be made, shall adopt the same; and every such Bank shall, whenever thereunto required by the Receiver General, publish in such manner as he shall direct, a statement of its affairs, attested by the President or some one of the Directors of the Bank, or by some officer thereof cognizant of the facts, and shewing on the one hand the amount due by the Bank to Depositors for principal and the amount due to them for interest, distinguishing the several amounts so due to Depositors having deposited in the Bank respectively, under Fifty pounds,—Fifty pounds or over, but less than One hundred pounds,—Two hundred pounds or over, but less than Three hundred pounds,—Three hundred pounds or

Books, &c., of any Bank to be open to inspection of Receiver General, and regularly kept.

Statement to be published when required, by Receiver General, and what it shall shew.

Liabilities.

Assets.

over, but less than Four hundred pounds,—and Four hundred pounds or over, and the amount of any other claims on or debts due by the Bank ; and shewing on the other hand the amount deposited in the hands of the Receiver General, and the nature of the securities deposited for such part thereof, as is not money, the other securities held by the Bank, stating the amount of each kind so held, and reckoning them at par,—the amount deposited on call in any chartered Bank mentioning it,—the amount then accrued for interest on securities held by the Bank, and the amount on hand in money, including Bank notes.

Directors to take security from Officers of the Bank.

XXIII. The Directors of every Savings Bank established under this Act, shall require from every Officer or Servant of the Bank, ample and good security by Bond, executed by him jointly and severally with two or more sufficient sureties, and conditioned that such Officer or Servant will well and truly demean himself in office in all respects, and will faithfully account for and pay over or deliver up to the Directors, when called upon so to do, all moneys and securities for money, books, papers, documents and property of whatever nature or kind, belonging to the Bank, or which shall come into or be at any time in his hands as such Officer or Servant ; and such Bond shall be to the Bank in its corporate name, and shall and may, in case of any breach of the conditions thereof, be enforced against the parties thereto by the Directors in the name of the Bank.

Form of Bond.

Punishment of Officers of the Bank embezzling money, &c.

XXIV. All moneys or securities for money deposited in any Savings Bank established under this Act shall be held to be the property of the Bank, subject to the right of the depositor to receive back or recover the same or an equal amount in money ; and if any Officer or Servant of any such Bank shall at any time fraudulently embezzle any chattel, money or valuable security belonging to such Bank (and any unjustifiable refusal or failure to pay over or deliver up any such chattel, money or valuable security, on demand, to the Directors of the Bank, or to any person by them authorized to demand and receive the same, shall be held to be a fraudulent embezzlement thereof) he shall be deemed to have feloniously stolen the same, being the property of the Bank, and may be indicted and proceeded against, and being convicted thereof, shall be liable to be punished in the same manner as any servant who, having fraudulently embezzled any chattel, money or valuable security received or taken into his possession by virtue of his employment for or on account of his master, and being in law deemed to have feloniously stolen the same, may be indicted, proceeded against, and punished : Provided always, that nothing herein contained, nor the conviction or punishment of the offender shall prevent, lessen, or impair any remedy which the Bank or any other person or party would have had against such offender or his sureties, or against any other person or party whomsoever ; but nevertheless the conviction

Proviso : conviction not to impair civil-remedy against offender or his sureties.

conviction of any such offender shall not be received in evidence in any action or suit at law or in equity against him or his sureties.

XXV. Any Savings Bank established under this Act, may be closed before the time fixed for that purpose by the Instrument of Association, under a By-law to be passed for that purpose, with the concurrence of three fourths of the whole number of votes of the Stockholders therein, at a General Meeting called expressly and in the manner provided by the By-laws of the Bank, for the purpose of considering the propriety of closing the Bank, and the time at which the Bank shall be finally closed shall be fixed by such By-law, and shall be not less than one year from the passing thereof; and if any such By-law be passed, and also if no such By-law be passed, but the period for which such Bank is to continue according to the Instrument of Association be within one year of expiring, then in either case the Bank shall receive no further deposits, and the Directors shall give notice that the Bank will finally close on the day appointed for that purpose, and that no further deposits will be received, and shall by such notice require all depositors to withdraw their deposits on or before the commencement of the six months next before the day appointed for the final closing of the Bank, and all interest shall cease on any deposits which are not withdrawn pursuant to such notice; and the Directors shall proceed to convert all the securities held by the Bank into money, and to discharge all liabilities of the Bank, and finally to close all the business thereof, dividing the money which shall remain, after discharging all its liabilities, among the Stockholders, in proportions to their respective shares in the Stock of the Bank: and notwithstanding the arrival of the time which shall have been appointed for the final closing of the Bank, the Directors in office at the time shall remain in office as Trustees, to complete and close the business of the Bank, and they or their survivors or survivor shall as such Trustees have, for that purpose only, all the powers hereby vested in the Directors, and such powers may be exercised by any majority of them or of the survivors of them, and the Receiver General, being satisfied that all the liabilities of the Bank have been discharged, or that such as are undischarged amount only to a certain sum, may deliver up to the Directors or Trustees, the money or debentures in his hands and belonging to the Bank, or such amount thereof as will leave in his hands no more than the amount of such undischarged debts.

Provision for winding up the affairs of any Savings Bank and closing the same.

General Meeting for considering of such closing

Expiration of term of Association.

Notice that no further Deposits will be received, &c.

Conversion of securities into money.

Directors to remain as Trustees for winding up affairs.

Delivery of securities in hands of Receiver General.

XXVI. Any failure on the part of any Savings Bank established under this Act to meet its engagements to or with regard to any depositor, shall have, to all intents and purposes, the same effect as regards the closing of the Bank and the other proceedings to be had under the next preceding Section and the powers and duties of the Directors, as if a By-law had been passed

Provision for the case of the failure of any Savings Bank, and what shall be deemed such a failure.

Duty of Receiver General in such case.

passed in the manner required by the said Section, providing for the closing of the Bank at the end of one year from the day on which such failure shall take place, and the Directors shall act accordingly; and in such case it shall be the duty of the Receiver General, and he shall have full power and authority to cause the moneys or securities in his hands and belonging to the Bank, and the interest thereon, to be applied solely to the payment of the sums due to depositors in the Bank in equal proportions, and for this purpose he may sell, dispose of, and convert into money any of the said securities, and if he shall see fit to deliver any of such moneys or securities to the Directors of the Bank for the purpose of being applied as aforesaid, he shall cause good and sufficient security to be given by Bond to Her Majesty, that such moneys or securities shall be faithfully so applied, and upon any breach of the condition of the said Bond, the same shall be enforced on behalf of the Crown, and the sum recovered shall be applied first in aid of the funds of the Bank to pay the claims of depositors therein, and the remainder to the public uses of the Province.

Directors contravening this Act to be jointly and severally liable for all damages

XXVII. If the Directors of any Savings Bank established under this Act shall wilfully or knowingly commit, or cause or allow to be committed, any contravention of this Act, or shall be guilty of any neglect of the duties hereby imposed on them, the Directors then in office shall (in addition to any other penalty or liability they may thereby incur) be jointly and severally responsible and liable for any loss or damage which any depositor or other person may sustain, by reason of such contravention or neglect of duty, saving always the recourse of any of the said Directors who shall not have participated in such contravention or neglect of duty, against those who have so participated, or any of them.

Officers, &c., to be competent witnesses, unless otherwise disqualified.

XXVIII. Any officer or servant of any Savings Bank established under this Act, or any Stockholder thereof, shall be a competent witness in any suit, action or proceeding by or against such Bank or under this Act, provided he be not otherwise incompetent.

Service of process, &c., on a Savings Bank.

XXIX. Service of process or of any notice or other document on any Savings Bank established under this Act, may be validly made by leaving a duly certified copy thereof, with any Director or Officer of the Bank or any grown person in the employ of the Bank, at the place at which its business is carried on, except only in cases where, from the nature of the process, notice or document, service thereof ought to be made on some particular Member or Officer of the Corporation in person; but any process, notice, or document which, in the case of a private party, might be validly transmitted to such party by mail, may, with like effect, be transmitted by mail to such Bank by its corporate name, addressed to its place of business as aforesaid.

XXX. The validity of any thing done by the Directors of any Savings Bank established under this Act or any of them, shall not be affected by any irregularity or invalidity in the election or appointment of the Directors or any of them, provided such thing be done before such irregularity or invalidity shall have been declared by some competent tribunal, and the office of such Director or Directors declared vacant.

Irregularity in election, &c., not to invalidate acts of Directors.

XXXI. Nothing in this Act shall be construed to give any Savings Bank, established under it, the right of issuing Bank Notes, or of carrying on the business of Banking, or any kind of business whatever, except such as is expressly authorized by this Act or belongs legitimately to the operations of a Savings Bank, but no such Bank shall be bound to receive or to retain any money offered in deposit, or deposited by any person, if the Directors shall think proper to refuse to receive or to retain the same.

Business of Bank to be strictly that authorized by this Act.

XXXII. No Savings Bank established under the provisions of the Act herein first above cited and repealed, in operation, at the time this Act shall come into force, shall be bound by the provisions of this Act; and the Act first above cited and repealed shall continue in force seven years from the passing of this Act, as regards every such Bank which shall not avail itself of the provisions of this Act in the manner hereinafter mentioned; Provided always, that if the Trustees of any such Bank as aforesaid, in office at the time when this Act shall come into force, or any majority of them either alone or jointly with any other person or persons, shall, with the consent of three fourths of the depositors in the said Bank, such consent to be given monthly by vote at a meeting called for that purpose, or by the signature of each depositor, and within six months after this Act shall come into force, execute an instrument of Association under the provisions of this Act, agreeing thereby to continue and carry on the said Bank as a Savings Bank under this Act, by the name which it bore under the Act hereby repealed, and to assume all the liabilities of the said Bank of what kind soever, and shall comply with all the requirements of this Act, (except as hereinafter provided with regard to the conversion of the securities then held by such Bank into such securities as may be held by a Savings Bank under this Act), then the Trustees and other parties who shall execute such Instrument of Association, and their successors, shall by the name so taken be a Corporation and Savings Bank under this Act, to all intents and purposes whatsoever, and subject to all the provisions thereof, and all the property and claims to property of the Savings Bank established as aforesaid under the Act hereby repealed, shall be transferred to and vested in the said Corporation and Savings Bank established under this Act, which shall be held to be one and the same with the Savings Bank established under the Act hereby repealed, and shall be subject

Provisions as to Savings Banks established under the Act hereby repealed.

Proviso: Trustees of any such Bank may execute an Instrument of Association and take advantage of this Act.

Proviso:
Limitation as
to securities
not to apply
to such Bank
during one
year.

Proviso:
Surplus funds
to be divided
among Depo-
sitors.

And if not
claimed.

Governor may
appoint an
Inspector or
Inspectors of
Savings
Banks.
Their duties.

Report to the
Governor if
any contra-
vention of the
Law be dis-
covered.

Order upon
such Report.

Penalty for
contravening
such order.

to all the liabilities thereof; Provided always, that the provisions of this Act limiting the securities which a Savings Bank established under it may lawfully hold, shall not, during one year from the time this Act shall come into force, apply to any Savings Bank continued under this Section, but such Bank shall have the said year or such longer period as the Governor in Council shall by order in Council allow to convert its securities into money or such securities as may be lawfully held by a Savings Bank under this Act: And provided always, that any existing Savings Bank which shall take advantage of this Act, shall after converting the assets of such institution into such securities as are required by this Act, divide any surplus they may have of such assets beyond the liabilities of such Savings Bank, amongst the depositors in such Savings Bank at the time of the passing of this Act, and all other persons who have been depositors in the said Bank, in proportion to the amounts respectively deposited by them in such Bank; and such portions of the said surplus so divided as shall not be claimed within three years from the passing of this Act, by the parties entitled thereto, shall be distributed amongst such charitable institutions as the Directors may select for that purpose.

XXXIII. The Governor may appoint an Inspector or Inspectors of Savings Banks, who shall have all the powers of Commissioners for inquiring into matters connected with the public business, and may examine any party under oath to be administered by any Commissioner: and it shall be the duty of each Inspector to visit each Savings Bank in that portion of the Province which shall be assigned to him, at least twice in each year, and to examine thoroughly the state of its affairs, for which purpose those in charge of the books and papers of the Bank shall allow him free access thereto, and all information which he may require; and if any Inspector shall find that the provisions of this Act (or of the Act cited in the first section if the Bank be subject to that Act) have been contravened by or in respect of any Bank, or if the state of its affairs shall be such as to endanger in the opinion of the Inspector the safety of the Depositors, or if any necessary information be refused him, he shall report the facts to the Governor, who shall by Order in Council, forbid the receiving of any further deposits by such Bank after the publication of such order in the *Canada Gazette*; and the Governor by any Order in Council, may either remove the prohibition to receive deposits, or confirm the same and order the affairs of the Bank to be wound up, in which latter case the Bank shall receive no more deposits, and shall be closed and otherwise dealt with in the manner provided in this Act, for winding up the affairs of any Bank established, under this Act: and if any deposit be received after the publication of such Order in Council forbidding the receiving of deposits, every Director and Trustee of the Bank shall be personally liable to the Depositors for the principal and interest of such deposit, unless he shall have protested against the receiving of deposits and

and published such protest in some newspaper published in or near the Bank's place of business, within forty-eight hours after the date of the publishing of the Order in Council not to receive deposits.

XXXIV. The Parliament of this Province may amend this Act in any way, or make any further provision for enforcing its enactments, without its being deemed an infringement of the rights of any Savings Bank established under it or of the Stockholders therein.

Parliament may amend this Act, &c.

XXXV. Nothing in this Act shall apply to the Montreal Provident and Savings Bank, and the Act herein first above cited shall remain in force as regards the said Bank, except in so far as it may have been altered or affected by other Acts specially relating to the said Bank.

Montreal Provident and Savings Bank not affected by this Act.

C A P . X C V I I .

An Act to regulate proceedings in Appeals from the decisions of Justices of the Peace in Summary Convictions.

[Assented to 30th May, 1855.]

WHEREAS it is necessary with a view to prevent frivolous appeals from the decisions of Justices of the Peace in matters connected with summary convictions, further to regulate the proceedings on appeals from the decisions of Justices of the Peace in cases of summary convictions: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows:

Preamble.

I. In any appeal to a Superior Court from the conviction, judgment or decision given by any one or more Justices of the Peace under the provisions of an Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, intituled, *An Act to facilitate the performance of the duties of Justices of the Peace, out of Sessions, with respect to summary convictions and orders*, no judgment shall be given in favour of the appellant if the appeal be based on an objection to any information, complaint or summons or to any Warrant to apprehend a defendant, issued upon any such information or complaint for any alleged defect therein in substance or in form, or for any variance between such information, complaint, summons or warrant and the evidence adduced on the part of the informant

In appeals under 14 & 15 V. c. 95, judgment shall not be given for Appellant on technical objections not urged before the Justice whose judgment is appealed from, and overruled by him.