

The Provincial Statutes of Canada, passed in the year 1841. Kingston: Stewart Derbishire & George Desbarats, 1841.

4 & 5 Victoria – Chapter 32

An Act to encourage the establishment of, and regulate Savings Banks in this Province. 18th September, 1841.

Whereas certain Provident Institutions or Banks for Savings have been or may be established in this Province, for the safe custody and increase of small Savings belonging to the industrious classes of Her Majesty's Subjects, and it is expedient to give protection to such Institutions and the funds thereby established, and to afford encouragement to others to form like Institutions; 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, that if any number of persons, who have formed or shall form any Society in any part of this Province, for the purpose of establishing and maintaining any Institution in the nature of a Bank, to receive deposits of money for the benefit of the persons depositing the same, and to accumulate the produce of so much thereof as shall not be required by the depositors, to be paid in the nature of compound interest, and to return the whole or any part of such deposite, and the produce thereof, to the depositors, deducting only out of such produce so much as shall be required to be so retained for the purpose of paying and discharging the necessary expenses attending the management of such Institution, according to such rules, orders and regulations as shall have been, or shall be established for that purpose, but deriving no benefit whatsoever from any such deposite or the produce thereof, shall be desirous of having the benefit of the provisions of this Act, such persons shall cause the rules, orders and regulations established or to be established for the management of such Institution to be entered, deposited and filed in manner hereinafter directed, and thereupon shall be deemed to be entitled to, and shall have the benefit of the provisions contained in this Act.

II. Provided always, and be it enacted, that no such Institution, as aforesaid, shall have the benefit of this Act, unless the rules, orders, and regulations for the management thereof, shall be entered in a book or books to be kept by an officer of such Institution, to be appointed for that purpose, and shall be open at all seasonable times for the inspection of the persons making deposits in the funds of such Institution; nor unless such rules, orders, and regulations shall be fairly transcribed on parchment, and such transcript shall be deposited with the Clerk of the Peace for the District wherein such Institution shall be established; and such transcript shall be filed by such Clerk of the Peace, with the rolls of the Session of the Peace in his custody, without any fee or reward to be paid, in respect thereof: but nothing herein contained shall extend to prevent any alteration in, or amendment of any such rules, orders, or regulations so entered and deposited and filed as aforesaid, or the repealing or annulling the same or any of them, in the whole or in part, or making any new rules, orders or regulations for the management of any such Institution,

in such manner as by the rules, orders and regulations of such Institution shall from time to time be provided; but such new rules, orders, or regulations, or such alterations in, or amendments of former rules, orders, or regulations, or any order annulling or repealing any former rules, orders or regulations, in the whole or in part, shall not be in force until the same, respectively, shall be entered in such book or books, as aforesaid, and a transcript or transcripts thereof shall be deposited with such Clerk of the Peace, as aforesaid, who shall file the same without fee or reward, as aforesaid.

III. Provided also, and be it enacted, that no such Institution, as aforesaid, shall have the benefit of this Act, unless it shall be expressly provided by the rules, orders and regulations for the management thereof, that no person or persons being Treasurer, Trustee or Manager of such Institution, or having any control in the management thereof, shall enter upon the duty of his office, unless he has taken an oath before any one Justice of the Peace, who is hereby authorized and required to administer the same, to the faithful discharge thereof, nor shall derive any benefit from any deposit made in such Institution, but that the persons depositing money therein shall have the sole benefit of such deposits and the produce thereof, according to such rules, orders and regulations, as shall have been or shall be established for that purpose as aforesaid, save only and except such salaries and allowances or other necessary expenses as shall, according to such rules, orders and regulations be provided for the charges of managing such Institution, and for the remuneration to officers employed in the management thereof, exclusive of the Director or Directors, Trustee or Trustees, or other persons having direction in the management of such Institution, who shall not directly or indirectly have any salary, allowance, profit or benefit whatsoever therefrom, beyond their actual expenses for the purposes of such Institution.

IV. And be it enacted, that all rules, orders and regulations from time to time made and in force for the management of any such Institution, as aforesaid, and duly entered in such book or books as aforesaid, and deposited with such Clerk of the Peace as aforesaid, shall be binding on the several Members and Officers of such Institution, and the several depositors therein, all of whom shall be deemed and taken to have full notice thereof by such entry and deposit, as aforesaid, and the entry of such rules, orders and regulations in such book or books, as aforesaid, or the transcript thereof, deposited with such Clerk of the Peace, as aforesaid, or a true copy of such transcript examined with the original, and certified as a true copy, shall be received as evidence of such rules, orders and regulations, respectively, in all cases, and no *certiorari* shall be brought or allowed to remove any such rules, orders or regulations into any of Her Majesty's Courts of record; and every copy of any such transcript deposited with any Clerk of the Peace, as aforesaid, shall be made without fee or reward, except the actual expense of making such copy.

V. And be it enacted, that if any Treasurer or Treasurers, or other officer or officers, or other person whatever, who shall be intrusted with the receipt or custody of any sum or sums of money subscribed or deposited for the purposes of such Institution, or any Interest or Dividend from time to time accruing thereby, shall be required by the rules or regulations of such Institution to become bound with sureties for the just and faithful execution of such office or trust, in such sum or sums of money as shall be required by the rules, orders and regulations of such Institution, such security shall and may be given by bond or bonds to the Clerk of the Peace for the District, where

such Institution shall be established for the time being, without fee or reward; and in case of forfeiture it shall be lawful for the persons authorized for that purpose by the rules, regulations and orders of such Institution, to sue upon such bond or bonds in the name of such Clerk of the Peace for the time being, and to carry on such suit at the costs and charges, and for the use of the said Institution, fully indemnifying and saving harmless such Clerk of the Peace from all costs and charges in respect to such suit.

VI. And be it enacted, that all monies, goods, chattels and effects whatever, and all securities for money or other obligatory instrument, and evidences or muniments, and all other effects whatever, and rights and claims belonging to or had by such Institution, shall be vested in the Trustee or Trustees of such Institution for the time being, for the use and benefit of such Institution and the respective depositors therein, according to their respective claims and interests, and after the death or removal of any Trustee or Trustees, then in his or their Successor or Successors, for the same estate and interest, as the former Trustee or Trustees had therein, and subject to the same trusts, without any assignment or conveyance whatever, except the transfer of stocks and securities; and also shall, for all purposes of action or suit, as well criminal as civil, in law or equity, in anywise touching or concerning the same, be deemed and taken to be, and shall in every proceeding (where necessary) be stated to be the property of the person or persons appointed to the office of Trustee or Trustees of such Institution for the time being, in his, her or their proper name or names, without further description; and such person or persons shall and they are hereby, respectively, authorized to bring or defend, or cause to be brought or defended, any action, suit or prosecution, criminal as well as civil, in Law or equity, touching or concerning the property, right or claim aforesaid, of or belonging to or had by such Institution, and such person or persons so appointed, shall and may in all cases concerning the property, right or claim aforesaid, of such Institution, sue and be sued, plead and be impleaded, in his, her or their proper name or names, as Trustee or Trustees of such Institution without other description; and no such suit, action or prosecution shall be discontinued or abated by the death of such person or persons, or his or their removal from the office of Trustee or Trustees, as aforesaid; but the same shall and may be proceeded in by the succeeding Trustee or Trustees in the proper name or names of the person or persons commencing the same, any Law, usage or custom to the contrary notwithstanding: and such succeeding Trustee or Trustees shall pay or receive like costs as if the action or suit had been commenced in his or their name or names, for the benefit of, or to be reimbursed from, the funds of such Institution.

VII. And be it enacted, that all and every person and persons who shall have received, or may hereafter receive, any part of the monies, effects or funds of, or belonging to, such Institution, or shall in any manner have been, or shall be intrusted with the disposition, management or custody thereof, or of any securities relating to the same, his, her or their heirs, executors, administrators, curators and assigns, or other legal representatives, respectively, shall, upon demand made in pursuance of any order of the committee of such Institution, or of any other delegated authority, as aforesaid, or at any general meeting of the Managers thereof, give in his, her or their account or accounts to such committee or other authority, as aforesaid, or to such general meeting of the Managers of such institution, or to such other person or persons who shall be nominated to receive the same, to be examined and allowed or disallowed by the said Committee or Managers,

respectively; and shall on the like demand pay over all the monies remaining in his or their hands, and assign and transfer or deliver all securities, effects, books, papers or funds taken or standing in his or their name or names, as aforesaid, or being in his or their hands or custody, to such person or persons as the said Committee or Managers of such Institution shall appoint; and in case of any neglect or refusal to deliver such account, or to pay over such monies, or to assign, transfer or deliver such securities, effects, books, papers or funds in manner aforesaid, it shall be lawful to and for the Trustee or Trustees of such Institution, for the time being, to exhibit a petition to the Justices of the Superior Court, having Civil Jurisdiction in the District wherein such Institution shall be established, who shall and may proceed thereupon in any summary way, and make such order therein, upon hearing all parties concerned, as to such Court in their discretion shall seem just, which order shall be final and conclusive; and all assignments, sales and transfer made in pursuance of such order, shall be good and effectual in Law, to all intents and purposes whatsoever.

VIII. And be it enacted, that all property, rights, titles, privileges and immunities which shall arise or accrue to any person or persons under this Act, shall pass and descend to the heirs, executors, administrators, or assigns of such person or persons, or to the curator of the estate or other legal representative of such person or persons, according to the Law of the part of the Province, relating to real or personal estate in which any such Savings Bank shall or may be established.

IX. And be it enacted, that it shall be lawful for the Trustees to invest any monies not exceeding three quarters of the whole sum deposited in such Institution, at any one time, which shall come into their hands by virtue of this Act, in any Debentures issued under the authority of any Act of the Provincial Parliament of either of the late Provinces of Upper and Lower Canada, or of this Province or in any Bank Chartered by any act of the Legislature of either of the late Provinces of Upper and Lower Canada or other public security in this Province, therein to avail for the purposes of this Act; but it shall not be lawful for the said Trustees to invest any such monies upon personal security; such sum or sums of money only excepted as shall from time to time remain in the hands of the Treasurer or Treasurers, to meet the necessary expenses and exigencies of the Institution, which may be vested in such personal securities; and should it appear upon due examination at the general, or annual meeting of the Trustees duly called for the inspection of the Accounts of any such Savings Bank that after payment of, or after due provision is made for the liquidation of all debts or deposits, and all interest due to, or arising thereupon, to depositors or others, there will be any surplus profit, or interests, it may be appropriated, and paid over to any charitable Institution in this Province by Law established or incorporated: Provided that the vote to make such appropriation be carried in the affirmative by not less than three fourths of the Trustees present at the meeting.

X. And be it enacted, that where provision shall be made by one or more of the general rules, orders or regulations of any such Institution, and filed as hereinbefore required, for a reference by arbitration of any matter in dispute between any such Institution, or any person or persons acting under them, and any individual depositor therein, or any executor, administrator, next of kin, or creditor of my deceased depositor, or any person claiming to be such executor, administrator next of kin, or creditor, then and in every such case the matter so in dispute shall be referred to such

arbitrator or arbitrators as shall have been named according to the general rules, orders or regulations of such Institution; and whatever award, order, or determination shall be made according to the true purport and meaning of the rules, orders and regulations of such Institution, shall be binding and conclusive on all parties, and shall be final to all intents and purposes, without any appeal.

XI. And be it enacted, that whenever a transcript of the rules, orders and regulations for the management of any Institution requiring the benefit of this Act, shall have been, or shall be deposited with the Clerk of the Peace for the District wherein such Institution shall be established, pursuant to the directions of this Act, such transcript shall be signed by two Trustees of such Institution, and shall, by such Clerk of the Peace, be laid before the Justices of the Peace for such District, at the General or Quarter Sessions next after the time when such transcript shall have been so deposited; and it shall be lawful for such Justices then and there present, after due examination thereof, to reject and disapprove of such part or parts thereof, as shall be repugnant to the true intent and meaning of this Act; and to allow and confirm the said transcript, or such part or parts thereof, as shall be conformable to the true intent and meaning of this Act: Provided always, that such Justices, shall signify such rejection or disapproval of any one or more of the rules, orders and regulations contained in such transcript, by the words "rejected," or "disapproved," written opposite such rule or rules, order or orders, regulation or regulations, and signed by the Chairman of such Sessions; and such rule or rules, order or orders, regulation or regulations, as shall be so rejected or disapproved of, shall not be in force from the time of such rejection or disapproval; any thing in this Act, or in any such rules, orders, and regulations to the contrary notwithstanding: Provided always, that the Clerk of the Peace do, within the space of ten days next after such rejection or disapproval, give notice thereof in writing to the two Trustees of such Institution by whom the transcript of such rules, orders and regulations shall have been signed, as aforesaid.

XII. And be it enacted, that the said Trustees shall not receive on deposit, for the use and benefit of depositors, any larger sum than five hundred pounds, at the same time, of any one depositor other than a religious or charitable Corporation.

XIII. And be it enacted, that within the first fifteen days of each Session of the Legislature, the said Trustees shall lay before the three Branches thereof, a detailed account of the number of depositors, the total amount of deposits; the amount invested in Bank Stock, specifying the names of such Banks; the amount deposited with Banks on interest; the amount secured by Bank Stock, specifying the name of such Banks, the amount vested in public security, or loaned on the pledge of such public security; specifying the nature of such public security the amount of cash in hand; the total accrued interest for the year, and the annual amount of the expenses of the Institution; all of which shall be sworn to by the Treasurer; and the Trustees or a majority of them shall make oath, that the said return is correct according to the best of their knowledge and belief.

XIV. And be it enacted, that this Act shall continue and remain in force during ten years, from and after the passing thereof, and from thence until the end of the then next ensuing Session of the Legislature, and no longer.

XV. And be it enacted, that this Act shall be deemed a Public Act, and shall be judicially taken notice of as such, by all Judges, Justices, and other persons whomsoever, without the same being specially pleaded.