The Bank of the People, 1835-1840: Law and Money in Upper Canada

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Abstract
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The Bank of the People, 1835-1840: Law and Money in Upper Canada

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In Upper Canada, money and banking were viscerally political issues, considered central to the broader legal order. Faced with a chronic shortage of coin, the British flooded the colony with publicly issued bills to fund the War of 1812. By the 1830s, this monetary issue was fully redeemed and replaced with notes issued by the colony’s first three chartered banks. Upper Canada’s Reformers saw those banks as public agents, playing a public role, but without democratic accountability. After several failed attempts to modify that system, they turned to establishing their own institution, named the Bank of the People. In doing so, they saw themselves not as merely engaging in private commerce, but as directly contesting this fundamental public provision. This article provides a legal-political history of that early contest over Canadian money and sovereignty, and explores how the Reformers put forth a critique of bank-issued money that remains relevant today.

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ON HIS MARCH INTO TORONTO during the Upper Canada Rebellion of 1837, rebel leader William Lyon Mackenzie paused the march, forced himself into the home of Doctor Robert Charles Horne, a bank teller, and burned the house to the ground. While Mackenzie had considerable animosity towards Doctor Horne personally, he had equal if not greater animosity towards his employer, the Bank of Upper Canada, once describing it as “a more terrible scourge of the Colonists than any pestilence that I have ever witnessed except the Cholera.”

Today, it might seem odd that a privately owned commercial bank would be such a target for political agitation, but the lead up to the Upper Canada Rebellion was a time when money and banks were viscerally political, and debated daily in newspapers and in the legislature. The Bank of Upper Canada, in particular, was emblematic of what the Reformers objected to in Upper Canada’s governance order: it was established by the legislature, empowered by statute, and tasked with a public role; but it was privately owned, not subject to democratic accountability, and run explicitly for the benefit of the colony’s elite. A committee headed by Reformers in the legislature labeled it “a political engine of dangerous power.”

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3. See William Lyon Mackenzie, “To the People of Upper Canada.” *The Correspondent and Advocate* (July 30, 1835) at 3 [Mackenzie, “To the People of Upper Canada.”].

4. I have capitalized the words “Reformer” and “Conservative” when used as nouns to communicate that these groups were akin to political parties—though, as detailed below, they were not formally organized as such.

In this regard, the Reformers were less exceptional than we might think. Money and its issuance have generally been thought central to the legal and political order. In a seminal decision, the Privy Council once held that the power to issue money “inheres in the bones of princes,” and “can never be abdicated by the royal power.”6 Hobbes, adopting an ancient metaphor, likened it to the blood of the commonwealth: “For naturall Bloud is in like manner made of the fruits of the Earth; and circulating, nourisheth by the way, every Member of the Body of Man.”7 Justice Bradley of the US Supreme Court described the power to issue money as “one of those vital and essential powers inhering in every national sovereignty and necessary to its self-preservation.”8 After generations in which it was largely relegated to technocrats and businesspeople, recent scholarship in heterodox economics,9 history,10 and increasingly, law11 has resurrected the

8. See Legal Tender Cases, 79 US 457 (1870) at 564.
political centrality of money—seeing it as a legal institution lying at the very heart of our governance order.

Canadian legal history is ripe for this type of exploration, and few of its moments more so than the lead up to the Upper Canada Rebellion. There is a rich historiography studying Upper Canada in the 1830s, and the Reformers in particular.12 Much of it, recently, has emphasized legal developments and the administration of justice within their movement.13 Often overlooked, however, are the Reformers’ efforts to reform their provinces’ monetary order, and even to establish their own commercial bank. Yet, these struggles were a key part of their movement: they proposed general banking laws in the legislature every year between 1831 and 1836, placed representatives on every legislative committee concerned with money or banking, ran a slate of candidates for the board of the province’s largest bank, and made multiple proposals for the colony to establish its own public bank or loan office. Finally, after several false starts, they succeeded in establishing their own institution, named the Bank of the People, in the newly incorporated city of Toronto in November 1835. In its short life, it survived both an international financial crisis and rebellion, before being sold to the Bank of Montreal in 1840.


These events have more often been discussed by economic rather than legal historians, and have generally been described as a part of a “bank mania” overtaking the quickly growing colony at that time. But the participants themselves did not see their efforts in such a narrow light, and neither should we. Their actions were not an attempt to capitalize on a banking craze, but were part of a political movement, one built directly upon the legal architecture establishing Upper Canada’s monetary order. Cash, mostly coin at the time, was scarce in Britain’s North American colonies, leading to near constant calls for more liquidity. To fight the war of 1812, the British government had recently flooded the colonies with money in the form of Army Bills. After the war, however, they redeemed the entire issue, exacerbating the colonies’ deficiency of money. By the 1830s, the Army Bills had been replaced by a new paper money: notes issued not by government, but by the province’s three newly chartered banks, each established with the direct aid of the legislature. In contrast to government-issued notes given

14. In his study of Canadian banking, RM Breckenridge describes these efforts as part of a general “banking mania” overtaking the province due to increased immigration and economic development. See Roelf Breckenridge, *The Canadian Banking System 1817-1890* (Macmillan & Company, 1895) at 65-79. For discussion on the “rapid expansion and prosperity of the 1830’s” that inspired considerable “impatience” for new banks, see R Craig McIvor, *Canadian Monetary, Banking, and Fiscal Development* (Macmillan Company of Canada, 1958) at 36-38. Adam Shortt’s history of Canadian banking is considerably more sensitive to the political dynamics of the period but does not draw much attention to the Reformers’ own understanding of money and its role in governance. See Adam Shortt, “Crisis and Resumption” in Adam Shortt, ed, *Adam Shortt’s History of Canadian Currency and Banking, 1600-1880* (The Canadian Bankers’ Association, 1986) [Shortt, *History of Canadian Currency*]. As a contrast, in the most detailed published account of these events, sociologist Albert Schrauwers describes these banks as experiments in what he terms “joint stock democracy”—“self-governing bodies, whose members had equal standing, having freely consented to join an association that devised its own rules and policies, and elected from among their ranks officers who were to carry out their wishes.” These, he argues, helped acclimatize Canadians to democratic government. See Albert Schrauwers, *Union Is Strength: W.L. Mackenzie, the Children of Peace and the Emergence of Joint Stock Democracy in Upper Canada* (University of Toronto Press, 2009) at 22. Another major exception here is the work of Lillian F Gates charting William Lyon Mackenzie’s political economy, which devotes considerable attention to his ideas on money and banking. Her work, however, is focused primarily on Mackenzie himself, rather than on the broader Reform movement, pays no attention to the legal mechanics of money creation, and makes Mackenzie come across as a bit more consistent in his thinking on these matters than I do here. See especially “The Decided Policy of William Lyon Mackenzie” (1959) 40 Can Historical Rev 185. Allan Greer also discusses the Reformers’ position on banks in his study of the roots of Canadian democracy, though he regards it as primarily a part of their general opposition to corporate privilege. See Allan Greer, “Historical Roots of Canadian Democracy” (1999) 34 J Can Studies 7 at 7–26.
to individuals for their services to the state, these banks issued their notes through loans, meaning that they came with an obligation of repayment to the bank with interest. They offered means of payment, but only in exchange for indebtedness. To Mackenzie, these banks served “the double purpose of keeping the merchant in chains of debt and bonds to the bank manager, and the farmer’s acres under the harrow of the storekeeper.”15 This amounted to a wholesale restructuring of how the province issued its money, away from a public issue and towards one centered on debt obligations to for-profit institutions. To Reformers, this looked less like a monetary or business expansion than a shift of obligations—banks were charged with stepping in where government had receded. With this shift fresh in their minds, Upper Canada’s Reformers did not see these new chartered banks primarily as business enterprises, but as government agents and the interest on their loans as an additional tax. In seeking to establish an independent bank, the Reformers were not joining a “bank mania” so much as intervening in this fundamentally public provision; in other words, they were contesting the sovereignty of the state.16

Along the way, Upper Canada’s Reformers levelled a devastating critique not only of the banks in their province, but of bank-issued currency generally—one that resonates even today.17 Now, as then, most money is not created directly by governments but by private banks.18 Now, as then, bank money is issued through loans, offering liquidity only at the cost of indebtedness, meaning that the majority of our money is tied, at some point, to a debt obligation owed to one of these institutions. Even if you are not personally in debt to a bank, someone you earn your money from (such as your employer) most certainly is. As with Upper Canada’s newly chartered banks at that time, private banks today

15. See Mackenzie, “To the People of Upper Canada,” supra note 3.
16. To be clear, I’m not alleging that the reformers were attempting to overthrow or replace the existing state apparatus (though some clearly were). Rather, by “contest” here I mean they were “vying for” state power—that, in the absence of sufficient inclusion in the governance process, they were directly competing with it by establishing their own independent money-issuing body.
17. It is worth noting here that political opposition to the introduction of commercial banks was not at all unique to Upper Canada. Some American examples will be discussed below.
lie at the centre of a web of reciprocal debts and obligations cutting across the entirety of our society and attaching to each one of us. The monetary system that was just developing in their time and that they actively contested, is now the norm, and has in that process become almost invisible. But its political dynamics remain much the same. Revisiting past efforts such as those explored here serves to remind us of the inherent power relations that bank-issued money carries—in our time no less than in theirs.

This paper offers a legal history of that short-lived but powerful experiment from the fragmentary evidence still available. While its primary focus will be on the founding and brief life of the Bank of the People itself, understanding the significance of that effort requires first understanding the context in which it was undertaken. Legal history is ideal here, for law played a constitutive role in Canada’s colonial monetary system, and largely provided the fora for its contestation. To that end, Part I of this paper will review the legal architecture behind Upper Canada’s monetary order. Part II will then focus in on the role delegated to banks in that system and how they fit within Upper Canada’s contentious political environment, paying particular attention to the Bank of Upper Canada. Part III will look at the Reformers’ views on money and banks more generally, leading into Part IV, which canvasses their early efforts for democratic monetary reform. Part V will explore the life of the Bank itself, the community that it served, and how its practices matched its political origins. Lastly, I will touch briefly on the subsequent careers of some of the Bank’s key participants and will apply their thoughts on banking to the present day.

I. UNDERSTANDING COLONIAL CANADIAN MONEY

Should you have gone to Toronto’s market square on a Saturday morning in the early nineteenth century, you would have often seen goods listed in dollars, in contrast to the newspapers, which more often listed prices in pounds (or, more accurately, in “Halifax Currency”). Government accounts and court fees were also denominated in pounds. What’s more, in spite of how prices were listed, individuals were more likely to actually pay for anything they bought with Francs or Pistareens, or even personal credit, than with actual American or British coin. Money is traditionally defined by its three core functions: as a medium of
exchange, a unit of account, and a store of value. The first step in understanding colonial Canadian currency, however, is to draw a bright line between the first two: The money individuals used as their medium of exchange was largely (and often entirely) distinct from their accepted units of account. Prices of goods and the actual currency used rarely matched one another.

How did this work? And how did it arise? The development was less economic than legal: in fact, it was the direct result of the British colonial legal framework. England generally barred its North American colonies from minting their own coin (also called specie) or issuing their own bills of credit. However, through their jurisdiction over local government funding and the courts, the colonies were empowered to define “legal tender” within their jurisdiction. (To be a legal tender, in this case, meant that a given currency could be used to satisfy court claims and to pay government obligations, such as taxes and fees.) Under this power, even when colonies could not issue their own legal tender money, they could denote what counted as good money within their jurisdiction, and thereby exercise some degree of monetary sovereignty. During the time period at issue here, British colonies in North America used this power to “rate” foreign coin—that is, they would assign it a certain domestic value approved under their own jurisdiction. Once rated, foreign coin became legal tender in that colony, not according to its face value or the amount of precious metal content within it, but according to the value stated by that colony's statutory index. While the ratings of coins did correspond, to some general extent, to their precious-metal content, colonies could (and invariably did) “overrate” the value of various foreign coins in order to attract and retain specie within their borders—that is, they would assign a nominal value to coin that exceeded what it would be worth under, say, British law. For example, Upper Canada adopted the Halifax Rating in 1821, which made Spanish silver dollars legal tender worth 5 shillings. Under that rating, the official unit of account was written as if in pounds, shillings, and pence—though, because the rating of coins differed from that of England, newspapers generally called it “Halifax currency” to specify that a pound in Upper Canada was not the same as a pound in England. Even then, settlers often still used “York Currency” (a dollar-denominated rating system originally adopted in New York City) for


21. For example, see *An Act to Repeal and amend certain acts of the province in relation to Gold and Silver Coin*, Statutes of Upper Canada 1836, c XXVII [*Currency Act*].
their daily business. As a result, people could, and did, use foreign coin, but its value domestically was largely divorced from the face value on the coins and from the value it would have received in international markets. The result was a currency melange throughout Upper Canada’s economy. The official unit of account of the colony was English; the prices quoted for much everyday business were American; the actual coins in people’s pockets were mostly Spanish.

Perhaps unsurprisingly, this practice ran into some conflict with imperial authorities, particularly after the decision of the British Treasury in 1825 to promote the adoption of a unified British currency throughout the empire. Nevertheless, the colonial balance of trade (which continually funnelled British coinage back home), the sheer prevalence of Spanish silver throughout the Americas, and the prominent trade that has always existed between Canada and the United States ensured that British coinage never stayed in the colony for very long. Indeed, the very practice of “overrating” foreign coin regardless of weight or quality itself favoured exporting newer or higher-quality coins, while importing or retaining more defaced and worn coinage. This meant that coinage remaining in the colony was generally of poor quality, as less worn and defaced coin tended to be exported to jurisdictions where it was required.

22. The Halifax Rating was first adopted, in part, by the colony in 1796. This adoption was then expanded in 1821, and any use of the earlier York Rating was sanctioned. Nonetheless, there are reports of the earlier York rating still being used, up until unification of the Canadas in 1841. See AB McCullough, Money and exchange in Canada to 1900 (Dundurn Press in co-operation with Parks Canada and the Canadian Government Publication Centre, Supply and Services Canada, 1984) at 91-93; Robert Chalmers, A History of Currency in the British Colonies (Eyre and Spottiswoode, 1893) at 175-88.

23. Issued by Order in Council in March of that year. For the Canadian implementation of this policy in British North America, see Shortt, History of Canadian Currency, supra note 14 at 219-40. See also Adam Shortt, Canada and Its Provinces A History of the Canadian People and Their Institutions, vol 4 (T&A Constable at the Edinburgh University Press for the Publishers Association of Canada, University of Toronto Press, 1914) at 224 [Shortt, Canada and its Provinces].

24. It is important to note that there was a lower limit on the quality of coinage that the law allowed to act as legal tender. See e.g. Currency Act, supra note 21.

25. See Shortt, Canada and Its Provinces, supra note 23 at 226-27. Angela Redish argues that the colonists’ near constant complaints about a deficit of specie is contradicted by modern economic theories of specie flows, and that the colonists must therefore instead have been referring to lack of quality coin, rather than a lack of coin generally. As I read the sources, the colonists were almost certainly directing their complaints at both. See Angela Redish, “Why Was Specie Scarce in Colonial Economies? An Analysis of the Canadian Currency, 1796–1830” (1984) 44 J Econ History 713 at 713–28, DOI: <https://doi.org/10.1017/S0022050700032332>.
The result was a mix of worn, defaced, and even counterfeit coinage throughout the colony, and an almost-complete break between the units of account and the actual medium of exchange people had on hand. It’s not hard to imagine how this situation would have complicated even the most basic everyday purchases. People had to use a variety of coins of various national origins, each priced differently according to their colony’s assumed index. Imperial actions to promote the adoption of sterling did little to actually unify the circulating media in the colonies, or to simplify the obvious burdens this complexity placed on everyday exchange. Canadian monetary historian Adam Shortt describes both Upper and Lower Canada at this time as “a very paradise for the coin collector,” containing “coinage of all the commercial nations.”

But colonial currency hadn’t always maintained such a stark separation between medium of exchange and unit of account, nor was currency always so scarce. For a brief period, the colonies had maintained a unified government currency in good supply. During the War of 1812, British forces in North America mobilized their resources by issuing bills of credit called “Army Bills.” Itemized in both dollars and pounds, they were issued across small and large denominations (the large ones bearing interest), and the law declared they would be accepted as specie for all payments owed to government. The political and economic stakes of the bills were well understood: people were essentially giving the government services in exchange for advances on public duties in a liquid form—that is, for a currency that could be used immediately in their daily life.

The Army Bills were extremely well received. At their peak, in January 1815, there was about £1.5 million worth of notes in circulation in the provinces. After the war, the British redeemed the bills, leading to a profound monetary contraction. By 1816, the entire issue had been withdrawn from circulation, compounding the already deep lack of currency among British North America’s

26. The quality of copper coins in the colony became so poor in the 1830s, that even illegal token copper half-pennies began to be imported and used as currency. See McCullough, supra note 22 at 101-102.
27. See Shortt, History of Canadian Currency, supra note 14 at 234.
29. See McCullough, supra note 22 at 83. They were also receivable at a government office for either cash or bills of exchange callable upon London, at the option of the Commander of the Forces. It seems that, legally, the bills were a cooperative effort between the colonies and the imperial military authority. See Duncan McArthur, “History of Public Finance, 1763-1840” in Shortt, ed, Canada and its Provinces, supra note 23 at 504-506.
30. McCullough, supra note 22 at 115-17.
settler population. Upper Canada would not have the same level of total liquidity until the 1850s.\textsuperscript{31} And this decline in cash was noticed.

A. \textbf{ENTER THE BANKS}

Wealthy and connected settlers soon began to propose the establishment of banks as a remedy.\textsuperscript{32} Banks offered services that directly aided this situation in two ways. First, banks could store varieties of legal-tender coinage and issue notes that simply listed an equivalent amount in dollars or shillings. These notes were promises to pay legal tender coinage in the amount listed on them in accordance, of course, with that colony's index. So, while not official legal tender, they could act as money, so long as those using them had a reasonable expectation that they could be presented to the issuing bank in exchange for official legal tender. In this way, banks exchanged a complex and clumsy medium for an easy one, greatly simplifying everyday exchange. Second, and perhaps more importantly, by issuing notes beyond their supply of actual specie reserves, banks could directly increase the circulating money supply.

It should come as no surprise, then, that Canada's earliest banking initiatives started immediately after the Army Bills were wound up. First was the Bank of Montreal (1817), followed by the Bank of Quebec (1818), the Bank of Upper Canada at Kingston (1819), the Bank of New Brunswick (1820), and, most importantly for our purposes, the Bank of Upper Canada founded in Toronto (then the town of York) in 1821.\textsuperscript{33} In spite of the official Halifax rating denominated in pounds, banks typically denominated their notes in dollars, reflecting the fact that trade in the Canadas was much more dependent on the United States than on England.\textsuperscript{34} These were political enterprises as much as commercial: they were individually established through corporate charter granted by the legislature, which specifically enumerated their powers and protected their shareholders with limited liability (a rare privilege at that time), and they were

\textsuperscript{31. I}bid.


\textsuperscript{33. Several of these banks began as partnerships, before seeking legislative charters soon after. See James Powell, A History of the Canadian Dollar (Bank of Canada, 2005) at 17-18.

\textsuperscript{34. The Bank of Upper Canada, discussed in detail in the next section, was the outlier here, being the only Bank in the Canadian colonies in the 1820s to issue notes denominated in both dollars and shillings.
universally run by wealthy and politically-connected individuals, often with a strong loyalist streak.  

Perhaps ironically, these banks began to store a large quantity of the colony’s specie in their reserves, thereby accelerating the rate at which their notes replaced coin as a circulating medium. It must be emphasized, however, that these early banks of “issue, discount and deposit” were not primarily held out as savings institutions, but as money issuers—meant to replace and supplement the colonies’ disparate and polyglot money stock with their own notes. They generally built their reserve of specie not from attracting savings (although that was undoubtedly a part of their business), but from issuing shares, and the base of their business was note issuance against loans. Their primary cause was to fill the void left by the Army Bills and to remedy the colonies’ “chaotic” currency. They were intended, quite literally, to step in where government had stepped back.

But not all paper money is the same, and bank money creation took on a distinctly different form than government Army Bills. For these banks, money issuance, lending and discounting were all intimately connected. Typically, 

35. It is worth noting here that this was generally the case for incorporated businesses in Upper Canada. See Philip Girard, Jim Phillips & R Blake Brown, *A History of Law in Canada, Volume One: Beginnings to 1866* (University of Toronto Press, 2018) at 628-36. While it was not the case at this time, in the union period, double liability would become the norm for banking incorporations.


37. There is a heated contemporary debate on the nature of commercial banking, between those who understand commercial banks primarily as financial intermediaries and those who understand them primarily as money creators. See Morgan Ricks et al, “Banking: Intermediation or Money Creation” (2020), online: Just Money [perma.cc/2VG4-WPVE]. While it goes beyond the scope of this article to engage directly with that debate, it is clear to me from the sources referenced in this paper, that commercial banks were introduced into Upper Canada explicitly so that they could act as money creators, and not simply to provide financial intermediation. This was, in fact, the main purpose behind their introduction.


39. This field is filled with technical terms that are used in multiple, often confusing ways. “Discounting” is a primary example. Discounting, in the sense, refers to a simple act of lending against a promise of repayment, and is not to be confused with the act of “discounting” bills of exchange payable in the future (which is dealt with a bit below) or exchanging banknotes “at a discount,” which were both related but distinct processes.
a merchant would grant the bank a promissory note (also called commercial paper) promising payment of a certain sum to the bank in a relatively short period of time—often 3 to 6 months. Promissory notes, in this sense, are distinct from banknotes or army bills (also often called promissory notes), as they typically would not circulate, but simply stayed with the bank as a marker of the loan. The bank would then credit that merchant’s account with slightly less than the total promised in that promissory note. (The difference between these numbers was the interest charged for the loan.) Whenever the merchant wanted to draw down from their account, the bank gave them notes that the merchant would then spend into circulation. In other words, the bank would lend its own money instead of specie. When due, the promissory note could either be repaid in specie, by returning the bank’s own notes to it or, at times, with the notes of another local bank. These loans were very often rolled over; however, if called in and unpaid, litigation was the result. This process was generally called “discounting,” though we would recognize it as a simple loan, and it was the primary means by which banks issued money. Importantly, once issued, a bank’s notes would stay in circulation some time, often coming back to the bank for repayment in the end, granting the banks considerable early expansion by note issuance alone and requiring relatively little redemption of notes for specie.

Banknotes very quickly became the predominant currency for everyday use in the colonies. While we do not have specific numbers for the amount of coinage in circulation, contemporary accounts estimated that banknotes made up about 75% of the circulating medium of exchange in Upper Canada almost immediately after the banks were established. As early as 1823, well-established Upper Canada politician John Beverly Robinson wrote that “for several years past all payments in Upper Canada, not only by Individuals but by civil and even Military departments of the public service have been generally made in the paper of the different banks.” While not legal tender (and therefore not technically usable to pay taxes and government fees), it seems that banknotes were almost immediately used for all forms of payment (even by government), and dwarfed all other circulating forms of money.

40. See McCullough, supra note 22 at 86-87.
41. See Shortt, History of Canadian Currency, supra note 14 at 241-42.
42. See McCullough, supra note 22 at 88-89.
43. JB Robinson to Wilmot on 28 January 1823, as quoted in McCullough. Ibid at 88.
B. A SHIFT OF MONEY AS A SHIFT OF OBLIGATIONS

It is worth taking a moment to account for this shift. Only two decades before, British colonists had widely used government notes. Money had been provided in exchange for service to the state, often driven by military expansion. These were now replaced entirely, not by a new government issue, but by private banknotes, issued by a small number of deeply elitist institutions. Where Army Bills had promised interest to the receiver, private banknotes, primarily issued through loans, required interest from the receiver in repayment. Where Army Bills amounted to payment to individuals, banknotes came at a cost and with a commitment. Government receded, tasking for-profit enterprise to step in, but by means of institutions chartered by law and with explicit government backing. There was a sense in which this new money felt not simply like a monetary expansion, but a shift of obligations. This sense was particularly acute if you lived in Toronto or the surrounding area, where the vast majority of this new money was issued by one, deeply partisan institution—the Bank of Upper Canada.

II. THE BANK & THE GOVERNMENT

The first chartered bank in the Canadian colonies, the Bank of Upper Canada was established in 1821, through the influence of Anglican archdeacon John Strachan and his followers in the “Family Compact”—a particularly close-knit group of wealthy and influential Conservatives, who wielded an outsized influence in Upper Canada's public life. At birth, the bank was therefore immediately caught in the conflict between Conservatives and Reformers that dominated Upper Canadian politics in the 1830s.

A. THE GOVERNMENT

This conflict has spawned a truly massive body of literature and can only be briefly summarized here. While the two sides frequently battled over specific policies, the heart of their conflict turned on their competing visions for the future of the colony’s constitutional order. The 1791 Constitution Act divided Upper Canadian government between an executive and a two-part legislature

44. The Bank of Montreal has the claim of being Canada’s first bank, as it was established in 1817, but it did not receive its legislative charted until 1822, one year after the Bank of Upper Canada.

45. This section is based primarily on the work of Craig and McNairn. See Craig, “The 1830s,” supra note 12; McNairn, The Capacity to Judge, supra note 12.
that included a House of Assembly modeled on the House of Commons ("the Assembly"), and a Legislative Council modeled on the House of Lords ("Council").

The colonial executive was a Lieutenant Governor, appointed by officials in London and aided by an executive council, members of which served at the pleasure of the Governor, though many served extremely long terms. The executive carried on much of the colonial governance, though it could not pass legislation or alter taxes without the legislature. Instead, the executive arm relied on its own revenue, largely from sources such as imperial customs, licenses, and land grants. This gave it a degree of autonomy from the legislature that did not at all mirror the British constitutional order of that time.

Besides administration, the Governor also had the power to veto legislation passed by the legislature, as did officials in London. The Assembly was freely elected by the voting population, and the franchise was relatively broad for the period. While limited to adult, property-holding men, the property qualification was comparatively low and not hard to meet for much of the white, male population.

While the Constitution Act contained no outright exclusions from the franchise on the basis of race or gender, the common law exclusion of women from the franchise was understood to deny them the vote, and most Indigenous people were excluded on the basis that they did not hold individual property according to the colonial British definition.

Members of the legislature's other half (the Council) were appointed by the Lieutenant Governor for life. Legislation could be proposed by the Assembly, though it could only become law once assented to by Council and avoiding veto by the Lieutenant Governor.

Generally speaking, the Reformers advocated for making the colonial government more responsive to the electorate, either by making council elected and/or mandating that the executive council maintain the confidence of the Assembly. Conservatives, on the other hand, favoured leaving the colony's

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46. The overview of Upper Canada’s constitutional structure here is drawn by Girard, Phillips & Brown. See supra note 35 at 495-507.
47. Ibid at 500, 504.
49. Ibid. See also Philip Girard, “Rearguard or Vanguard: A New Look at Canada’s Constitution Act 1791” (2021) 50 J Imperial & Commonwealth History 1 at 17, DOI: <https://doi.org/10.1080/03086534.2021.1985215>.
50. Interestingly, the colony’s public debt was managed by a receiver general appointed by the British Treasury Department, who operated independently of the lieutenant governor. See Peter A Baskerville, The Bank of Upper Canada: A Collection of Documents (Champlain Society in cooperation with the Ontario Heritage Foundation and Carleton University Press, 1987), at lxii.
governance largely unchanged. This is rather unsurprising given that Conservatives dominated the unelected branches of government, while the Reformers had their primary representation in the elected Assembly. (Still, even in this portion of the legislature, Reformers only constituted a majority in the years 1828-32 and 1834-6, meaning that the Conservatives generally had the upper hand. 51) Even without full grasp on colonial government, Reformers made frequent use of what representation they had, often issuing reports through select committees of the Assembly that drew attention to aspects of colonial governance they felt in need of change and championing substantial bills, even when they were destined to be voted down by Council.

Importantly, these two camps were not homogenous. General political groupings rather than formal parties, each contained both more radical and more moderate factions. Among the Reformers, there were more radical activists, organized around William Lyon Mackenzie, as well as moderates, coalescing under the leadership of Reformers such as John Rolph, William Baldwin, and one-time speaker of the Assembly Marshall Spring Bidwell. 52 At the more extreme end of the conservatives was the Family Compact, whose leaders at the time where John Strachan and John Beverly Robinson. While some more radical Reformers at times flirted with republican ideals drawn from the United States, the contest between Reformers and Conservatives more often took place within the terms of the British model, a debate enabled by the flexibility of what the idea of the British Constitution meant to Upper Canadians at that time. 53 (Reformers, for example, could assert that their proposed changes to colonial government did not amount to radical change, but would make the colony more akin to English government—into a more accurate representation of what the British constitution actually demanded.) Lack of cohesion within both camps left Upper Canadian government generally “inefficient and essentially leaderless,” yet consumed with passion and fierce division over the future of the colony. 54

51. An exception to this was the minority Reform leadership of Marshall Bidwell, who “by playing one group off against another…was often able to get its way.” See Craig, “The 1830s,” supra note 12 at 188.
52. Both Rolph and Bidwell would later be founding board members of the Bank of the People.
53. See McNairn, supra note 12 at 23; Greer, supra note 14.
54. See Craig, “The 1830s,” supra note 12 at 188.
B. THE BANK

The Bank of Upper Canada was born in this context, championed by the Family Compact, and had direct political aims from the start. Its charter allowed for the provincial government to purchase shares, which it did, owning roughly a quarter of the institution and formally appointing four of its fifteen directors. Of its founding directors, nine served either in the Executive or in Council. In essence, the bank’s “directorate and the government were…congruent.” These origins came with an implicit obligation “to assist the government, by loan if necessary, in the conduct of its financial affairs.”

Importantly, it also made its place of business “at the seat of the Government of this Province”—then the town of York. While its site was long inhabited by Indigenous nations, York (incorporated as Toronto in 1834) was only substantially settled by colonists after the American Revolution, primarily by loyalists granted lands by the Crown for their service in that war. The early city was centered on market square (now the site of St. Lawrence Market), which also acted as city hall and a site for public meetings. Roughly 20 blocks across, hugging the northern shore of Lake Ontario, it had a population at incorporation of about 9,000. Small as this may seem, Toronto was still the most populous settler city in Upper Canada, as well as the seat of the colonial government and military administration, which were the driving forces in its culture and growth. (And this was a period of incredible growth: Between 1815 and 1840, the European settler population of Upper Canada grew from 95,000 to over 450,000.) It earned the nickname “Muddy York” due to its lack of paved streets and sewers,

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55. In a letter instructing one of his followers, John Strachan emphasized that the Bank ought to be “as much Provincial” as possible, John Strachan to John Macaulay, York, 26 July 1819. Baskerville, supra note 50 at 6.
56. See Shortt, History of Canadian Currency, supra note 14 at 103.
57. Baskerville, however, offers some important caveats regarding his assertion here, observing that, while there was certainly “an important connection” between the bank and the government, “government was a multilevelled and often discordant apparatus. The bank and parts of the government intersected at various times, but rarely ever completely merged.” See Baskerville, supra note 50 at xl, cli.
58. Ibid.
59. Ibid at xxxvii-xli. This location requirement was placed in the Bank’s charter, An Act to incorporate sundry Persons under the style and title of the PRESIDENT, DIRECTORS and COMPANY of the BANK of UPPER CANADA, Statutes of Upper Canada 1819, c XXIV.
60. This description of Toronto is largely drawn largely from William Kilbourn. See Kilbourn, supra note 2 at ch 1.
61. Much of this growth was driven by mass dispossession of Indigenous peoples. See Girard, Phillips & Brown, supra note 35 at 490.
which facilitated cholera epidemics in 1832 and 1834. With its muddy streets, growing immigrant population, and heavy government investment, Toronto sat at the apex of Upper Canada’s growth, and of its pronounced political tensions, and the Bank of Upper Canada sat with it. This physical and political location was reflected in the Bank of Upper Canada’s provincial character, and in its priorities as a lending/discounting institution: Whenever the bank slowed or ceased offering certain services (like redeeming notes or discounting bills), it did so first in its outer areas and only lastly in Toronto.62

In spite of the fact that only one of its founders had any previous experience in managing a bank, the Bank of Upper Canada grew and was extremely profitable over its first two decades, due in part to direct government favouritism and in part to the general demand for a circulating medium of exchange.63 While it never had a complete monopoly over all of the government’s accounts in this period and its notes were not officially made legal tender, it did handle the British military’s funds in the colony, and acted as a sort-of wholesale dealer of provincial debt and international bills of exchange—both extremely political and extremely profitable lines of business.64 It also briefly acted as a clearinghouse for the notes of other banks in the colony.65 Further, for an extended period, the government refused to charter any competing institutions, granting the Bank an effective monopoly on note issuance in the province. For this time at least, it appeared as almost a direct arm of government: anyone who needed money would have to turn to it, either directly or indirectly. Its notes branded its pride of place in the colony, proudly announcing that it was “chartered by parliament” and bearing images of Britannia on the shores of America and of St. George slaying the dragon.66

62. See Baskerville, supra note 50 at li.
63. Ibid at p. xxxviii.
64. Ibid at lxiv-lxviii.
65. Ibid at lxxxiii.
66. The former clearly inspired by the longstanding use of Britannia to represent the Bank of England.
FIGURE 1: BANK OF UPPER CANADA, 1 DOLLAR NOTE, 19 MARCH 1831, BANK OF CANADA CURRENCY COLLECTION


FIGURE 2: BANK OF UPPER CANADA, 4 DOLLAR NOTE, 3 NOVEMBER 1830, BANK OF CANADA CURRENCY COLLECTION

To rebels and Reformers of the period, the Bank was not only overly favoured: It was notorious. They saw it as a pure expression of the Family Compact’s antidemocratic influence in the colony. An 1829 Assembly report noted the “widely diffused” belief that it was “a political engine of dangerous power.” Robert Baldwin called it a “dangerous engine of political oppression.” While there is no direct evidence to support this, Mackenzie went so far as to allege that it was explicitly corrupt, enabling politically connected individuals to use debt litigation to enact their personal political goals:

It is impossible to convey a correct idea of the vast influence exercised by an institution like the Province Bank in a country like Upper Canada. Possessing an exclusive power of loaning money... It is convenient for an unpopular government to have their puppets in the Assembly, whom they can extinguish in a moment by calling in a loan mortgaged on lands–it is convenient to be able, by a sudden law process and great expense, to frighten thousands from exhibiting their wishes and sentiments upon public occasions.69

The Reformers were not the only ones opposed to the Bank of Upper Canada’s privileged position. Demand for more liquidity within the colony grew continuously in the 1830s, leading others to seek charters for new competing banks, which the legislature eventually granted. First, merchants in Kingston were granted a charter to establish the Commercial Bank of the Midland District in 1832; second, the Gore Bank was established in Hamilton in 1836. While ostensibly competitors with the Bank of Upper Canada, both were also established by individuals with conservative connections, even if less directly invested in the Family Compact itself.71

67. See First Report by the Committee of Finance, supra note 5.
69. See William Lyon Mackenzie, Sketches of Canada and the United States (Applewood Books, 2007) at 455-60 [Mackenzie, Sketches of Canada]. It is worth noting that there is no actual evidence this took place.
70. See McIvor, supra note 14 at 37.
71. The establishment of the Commercial Bank, in particular, was the result of a split among the conservatives between those who wanted the Bank of Upper Canada to maintain its monopoly by establishing a Kingston branch, which it did do, and those distrustful of the power associated with a single provincial bank of issue. Nevertheless, the first president of the Commercial Bank, John Solomon Cartwright, was a disciple of Archdeacon Strachan and an explicit member of the Family Compact. The Gore Bank also, while not directly in the hands of the Family Compact, was without question a politically conservative institution. See Shortt, History of Canadian Currency, supra note 14 at 281-93, 307-308.
To the Reformers, the new chartered banks were indistinguishable from the Bank of Upper Canada. Mackenzie described all as part of a loyalist caste who, “in nearly all cases, unite their patronage with that of the local government, and steadily strive to increase the influence of the Crown.” All represented the interests of the ruling classes against the people, all issued their notes through loans while protecting their shareholders with limited liability, and all were more than ready to use the leverage of debt and litigation to enforce their political will:

Remember if the York and Kingston banks were to fail nobody is responsible for the debts—there is not security but a sharp look out, and it is a very bad sign when the tories expel members every time they try to enquire into the affairs of a bank.

Whether or not debt litigation was ever used specifically in this manner, grievances like these took on a special urgency in an era that still maintained imprisonment for debt—a policy that the Reformers vehemently opposed and that took on a special resonance in their movement. John Rolph, for example, compared the practice to American slavery, and repeatedly proposed bills to abolish it. In Upper Canada, a creditor claiming against a defaulting debtor could seek to imprison the debtor both before and after judgement, so long as the debt met a minimum threshold, and the creditor could claim the risk of the debtor absconding from the jurisdiction. Given the nearness of the American border, this remedy could be sought in nearly every case. While colonial legislatures continually limited its scope, imprisonment for debt ultimately survived as a practice in every one of the British North American colonies, even through Confederation.

75. John Rolph, “Mr. John Rolph’s Argument in Favour of the Abolition of Imprisonment for Debt,” as partially printed in the Colonial Advocate (22 January 1829) at 1.
77. Ibid at ch 32.
But the Reformers’ objection to these banks was not limited to the possibility of litigation or physical imprisonment, as stark as those were. These banks, these “paper money noblemen” or “script lords,” were deemed fundamentally dictatorial. They manufactured their own money, only accessible by making oneself subservient to them, binding citizens in an unanswerable web of debt, and creating “a huge political engine to overawe the Province, entangle its inhabitants, and poison the very foundation of liberty.”

There was a palpable governance aspect to this. Under a chronic deficiency of coin, those in need of liquidity had essentially two options: borrow from a bank (in which case you owed that bank a debt), or work for someone else who borrowed from a bank. Either way, the line of dependence was clear, and banks lay at its centre. Those who owned and controlled the banks sat at the apex of these new interpersonal monetary obligations stretching throughout the colony. So long as Conservatives (and the Family Compact in particular) maintained dominant control over these institutions, they held sway (either directly or indirectly) over the better part of the colony’s settler population. Elected or not, these banks, in a very literal sense, governed the colony.

No wonder, then, that radicals like Mackenzie routinely referred to institutions such as the Bank of Upper Canada as indistinguishable from government, and the interest owed them on loans as a tax:

There are about two millions of paper dollars afloat in the Province. The tories are not only getting the use of this paper in loans directed by tory boards of directors, but you are paying a tax of nearly 7 per cent to a few individuals for the use of paper money which costs them literally less than a farthing for a guinea’s worth.

This characterization left open not only a line of critique, but also an avenue for dissent. If the Banks were, in this sense, government agents, then perhaps they should not simply be opposed but contested. To control a bank was to control the issuance of money, and to control the issuance of money was to contest the power of the state. When banking was seen as a core governance institution, it soon became a central component of the Reform movement itself.

78. See Mackenzie, To the People of Upper Canada, supra note 3.
79. See Mackenzie, A New Almanack, supra note 73 at 5.
80. See Mackenzie, To the People of Upper Canada, supra note 3 [sic].
III. THE IDEA OF A DEMOCRATIC MONEY

Anxiety around bank-issued paper money and speculation was widespread in the 1830s, not only in Canada but in the United States as well, where a ‘hard money’ critique was being advanced by some among the Jacksonian democrats and others. A guiding light in this movement was American economist William M. Gouge, whose book *A Short History of Paper Money and Banking in the United States* was among the most popular economic works of its generation, and was sampled in newspapers across North America.⁸¹ There, Gouge asserts that the only “real money” consisted of precious metals, which were valued for their own sake and used as money, not because of the actions of governments, but because of their convenience as a medium of exchange.⁸² Coining metal did not monetize it or add to its value, but merely enhanced its usefulness as a medium of exchange. Converting precious metals into coin, he said, “does not change their nature; it only adapts them to a particular use—fits them for passing from hand to hand, without the trouble of weighing and assaying each piece at each transfer.”⁸³ Their value is set by their inherent qualities, not by their use as money. Bank notes, by contrast, are “factitious” money: They can be used in the place of real money and can thereby raise the prices of items in the market, but they do not raise the actual value of things. This fuels speculation and boom-and-bust market cycles.⁸⁴ Therefore, banks, Gouge asserted, do not increase the actual capital of a country, but merely make it more volatile and place it at the whims of unscrupulous capitalists.⁸⁵ From this position, bank note issuance is a vice that should be gotten rid of, or, if preserved at all, should be kept as close to its specie reserve as possible.⁸⁶

These arguments resonated within the British North American colonies, particularly among radicals. In Lower Canada, leader of the Patriote movement Louis-Joseph Papineau stated that “of all the devices now operating to harm the

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⁸⁴. *Ibid* at 13. Gouge’s approach has some resonances with the monetary theory of antiquity. See Geva, *supra* note 32 at ch 2. It also has some resonances with more modern writing in the Austrian school of economics. See Murray N Rothbard, *Economic Depressions: Their Cause & Care* (Ludvig von Mises Institute, 2009).
⁸⁵. Gouge, *Short History*, *supra* note 82 at 16.
⁸⁶. *Ibid* at 32, 41-42.
interests of the country…the most powerful is the bad direction of Banks.”\textsuperscript{87} In 1835 (the same year the Reformers would start the Bank of the People in Toronto), a group of Patriotes founded the Banque du People in Montreal.\textsuperscript{88} In spite of themselves starting a bank, it seems the Lower Canada Patriotes maintained heavy doubts concerning the merits of paper money at all, particularly after the continent would be pulled into a global economic depression in 1837.\textsuperscript{89} Representing Upper Canada’s radicals, William Lyon Mackenzie echoed this position when he suggested that his readers “Never keep bank paper by you when you can get gold and silver.”\textsuperscript{90}

While Upper Canada’s Reformers clearly drew inspiration from their Lower Canada and American compatriots (particularly Mackenzie), by at least the 1830s, we see them taking on a largely distinct position: Instead of a plain anti-bank or hard money advocacy, the Reformers focused less on the fact of bank-issued currency than on its structure and control. Instead of advocating for a reining-in of banks and paper money, they began to request bank charters of their own, and to advocate for taking control of the money power themselves. While clearly drawing in places from a classic hard-money critique, the Reformer position became almost its opposite—a demand for more banks, only ones with different structures and different loyalties.

In 1831, a select committee of the Assembly staffed with both more radical and more moderate Reformers reported that, though “great losses have been sustained by the failure of banks, the good has perhaps preponderated over the evil.”\textsuperscript{91} By replacing commodity money with paper, it asserted, banks enable coin to be exported in exchange for foreign goods that add to domestic wealth, and, regardless of their benefits or risks, “bank paper & bank credit are so ‘interwoven with the commercial operations of society’ that to abolish banks and withdraw their notes from circulation would reduce thousands to poverty.”\textsuperscript{92}

\begin{thebibliography}{99}
\bibitem{88} \textit{Ibid} at 75.
\bibitem{89} \textit{Ibid} at 78.
\bibitem{90} See Mackenzie, \textit{A New Almanack}, supra note 73 at 5.
\bibitem{92} \textit{Ibid} at 202.
\end{thebibliography}
stability and accountability. In his 1833 *Sketches of Canada and the United States*, even Mackenzie, while still decrying “the specious pretences of a paper currency and joint-stock banks to encourage trade” nevertheless stated that he had “no objection to joint-stock banks,” provided they meet certain requirements, such as having their stock fully paid in and making stockholders liable in the case of a loss “so that the bill-holder might not suffer.”93 “There, he states his objection to the colony’s banking system as less directed towards its use of speculation or paper money than “it’s exclusive character,” given that the “Legislative Council is formed of a junto of government officers, enjoying a monopoly of the paper currency, and able to prevent its passing into other hands.”94

This slightly pro-bank position strengthened later on. When the British Colonial Office (on Mackenzie’s request) threatened to disallow the acts chartering the Bank of Upper Canada and the Commercial Bank, both Bidwell and fellow moderate Reformer Peter Perry moved for the Assembly to issue an address strongly protesting that possibility, even though it largely supported their political opponents.95 (The threatened veto never took place.)96 In 1835, another Reformer committee of the Assembly stated outright that “an increase of capital and of the circulating medium is loudly called for and absolutely necessary in this Province.”97

While the difference in language here is subtle, the shift in meaning is immense, and even Mackenzie would not prove immune to it. In place of an outright rejection of bank-issued currency in favour of “hard” money, these Reformers were demanding not less but *more* liquidity, only through new institutions and to new purposes. In place of simply rejecting banking institutions as patronage or graft (which, to an extent, they certainly were), the Reformers began to contest them and to pioneer their own. Mackenzie wrote in his newspaper “you will either have to make your own paper money and take the profit yourselves as they do now, or you will have to borrow that of those who will make it for their own profit, and will find yourselves getting behind your fellows into insignificance.”98

93. See Mackenzie, *Sketches of Canada*, supra note 69 at 455-60.
94. *Ibid* at 460.
95. The address was passed nearly unanimously in the Assembly. See Upper Canada, *Journal of the House of Assembly, 11-4* (1 March 1834) at 140; Upper Canada, *Journal of the House of Assembly, 12-1* (13 February 1835) at 136.
96. See Breckenridge, supra note 14 at 67-73.
97. Upper Canada, House of Assembly, *Report of Select Committee to which was referred the subject of the Currency* (M Reynolds, 1835) at 3 [Report on Banking].
98. See Mackenzie, “To the People of Upper Canada,” supra note 3.
This is a noteworthy shift away from decrying banks in general, towards an emphasis on creating new ones that could further the democratic cause, eventually becoming a liberatory call:

You will be shewn, one of these days, how the community can have the loans to themselves and also retain the profits on the use of the paper... Archdeacon Strachan's bank (the old one) and his pupil, John Solomon Cartwright's bank (the new one) serve the double purpose of keeping the merchants in chains of debt and bonds to the bank manager, and the Farmer's acres under the harrow of the storekeeper. You will be shewn how to break this degraded yolk of mortgages, ejectment, judgements and bonds. *Money bound you—money shall loose you.* Never doubt it for a moment, but remember that after telling us (Ecclesiastes, c.19.) that “a feast is made for laughter, and wine maketh merry,” the wisest man the world ever saw, shews his penetration and sagacity by adding, that “money answereth all things.”

The question became not whether to roll back bank money, but whether new banks could be created to direct the money power to new purposes:

The people of this country, degraded by the tory misrule of nearly half a century, and cursed with a Banking system which heaps up wealth in the hands of a few while the many are getting into greater difficulties, begin to ask one another whether they too cannot have Banks? Banks for the direct and indirect profit and advantage of the community, instead of the alternative of paying for filthy rags of the very meanest men in the country?

Beginning in 1831, Reformers in the Assembly began proposing general banking laws in every legislative session, the primary goal of which was to open up the ability to incorporate banks in the province without explicit sanction by the legislature, and therefore outside of Family Compact control. Other central planks in their proposed laws included a limitation on the issuance of bank notes below a specified denomination, annual published statements as to their debts and credits, and strict enforcement of specie payments. Far from opposing bank-issued money, they began to describe banks as a benefit to the community. A call for more banks quite literally became a rallying cry for the Reformer cause. (“Give us Banks! —Give us Banks!”) In spite of his former interest in Gouge

99. Ibid.
100. William Lyon Mackenzie “What can wealth do for us?,” *Correspondent & Advocate* (6 August 1835) [Mackenzie, “What can wealth do for us?”].
103. Ibid.
104. See Mackenzie, “What can wealth do for us?,” *supra* note 100.
and the hard money position, by 1835 even Mackenzie had completely reversed his position: “I think we can match them with paper, and beat them too.”

IV. EARLY ATTEMPTS AT A PEOPLE’S BANK

The Reformers’ first foray into contention for control of the province’s money was directed within the Bank of Upper Canada itself. In June of 1830, a group of prominent Reformers including John Rolph, Robert Baldwin, and Mackenzie attempted unsuccessfully to have a Reformer appointed as one of the four representatives of the provincial government to the Bank of Upper Canada’s board.

The issue of increasing the circulating money of the province was very alive at that time—not only among the Reformer crowd, but among others as well. In February, a committee containing more conservative Assembly members studied and proposed the creation of a privately-owned provincial bank—one that, unlike the existing chartered banks (including the Bank of Canada), would issue notes officially receivable for all public dues, and that would have a true monopoly on the government account. The proposed institution looked remarkably similar to the Bank of Upper Canada and there were strong suspicions that the Bank of Upper Canada would take on the proposed role, should such an initiative be carried through. The proposal never passed Assembly.

Soon after, a committee chaired by future rebel leader and supporter of the Bank of the People, Charles Duncombe, produced a competing report calling for its own version of a provincial bank. In some ways, this proposed institution looked similar to the earlier proposal for a provincial bank; however, in the details regarding its governance and lending powers, we can see a world of difference. As with the other proposal, this bank would be privately owned, issuing shares equal to £500,000 (Halifax currency) to the general public (larger than the Bank of Upper Canada’s at that time). But, unlike the previous proposal, shareholders would not be protected by limited liability, and measures would be put in place

105. Ibid.
108. See Shortt, History of Canadian Currency, supra note 14 at 309-310. This fear was not at all unfounded, as the Bank of Upper Canada had long sought to take on such a role. See also Baskerville, supra note 50 at lxx-1xxi.
to help ensure that no one individual or small group could overly influence the institution. (No one shareholder could hold more than 400 shares, and voting would be proportional with no one holding more than 5 votes regardless of their ownership share.) The company would be barred from investing in foreign loans, mining or merchandize, and would be required to maintain at least one agency in every district in the province. Clearly, the goal of this institution was to vest money creation in a privately-owned, but publicly accountable body, accessible to citizens throughout the province, and invested in domestic commerce and agriculture. The report was printed and circulated publicly, but its proposed bank was never created.

In the same session, Mackenzie brought forward a petition on behalf of members of the Home District (a central district in Upper Canada that included Toronto), calling for the creation of a provincial loan office. Unlike the chartered banks that issued notes through general loans primarily to merchants, this proposed institution was, essentially, a large land bank for the colony. Its notes would be issued only against mortgages and could be recirculated once repaid. It would establish offices in every county, and issue notes up to a maximum of twice the provincial debt, with a proportional number of notes allowed per county relative to that county's population. The office, the petitioners claimed, would offer relief to the poor, "enhance the value of property," and "be a check on the Bankers." The goal was to replace (or at least parallel) chartered banknotes with a public issue made exclusively to landowners, as opposed to merchants. While these notes would still come with a debt, that obligation would at least be owed to a publicly accountable body. We have few further details about the intended workings of the proposed bank, but we can assume it would have been similar to the land banks previously established in the American colonies, where they were intended to provide small farmers with liquidity and were, at times, quite successful. Yet again, the petition resulted in no substantive changes: It was referred to the committee on trade, where it was dropped.

These legislative failures nevertheless left some space in the legal landscape for further agitation. The law was clear at the time that a full corporate charter could only be granted by the legislature or the Crown. As with business corporations

111. Ibid.
today, this gave an entity full legal personality separate from its owners and (generally) limited liability. There was some uncertainty, however, as to whether individuals could establish a bank as a different form of company (then called a “joint-stock company”) without explicit legislative approval. While it did not result in the creation of a provincial bank, the Duncombe report seemingly resolved this dispute, stating that its members “have examined the law relative to Banking and have taken the best legal advice upon the subject, and are fully satisfied that there is no law in force in this Province rendering the formation of Joint Stock Banking Companies illegal.”

114 Also called “private companies” to distinguish from “public” (i.e., chartered) corporations, these entities were a sort of hybrid between a common law partnership and a full corporation. They could be formed without a charter, issue stock, carry on business, and lend out their own notes, but they had a limited form of legal personality and their shareholders were not protected by limited liability. If the findings of the Duncombe report were to be believed, it was open to the Reformers to start a bank on a joint-stock basis, and avoid the legislature altogether. This left room for banks established outside of explicit approval by the Tory-dominated Council, and the Reformers wasted no time capitalizing on this opportunity.

Their first attempt was the Farmers’ Bank. While established by Reformers, the bank’s organizers soon called in the aid of a new arrival to Upper Canada—Captain George Truscott. 115 A long-time veteran of the Royal Navy with a deep interest in banking, having previously founded a bank in Exeter, he came to


115. This paragraph is principally drawn from the Dictionary of Canadian Biography. See “Dictionary of Canadian Biography” (University of Toronto/Université Laval, 2003) vol 8 sub verbo “Truscott, George,” online: <www.biographi.ca/en/bio/truscott_george_8E.html> [https://perma.cc/3F5R-R6K3]. See also Shorts, History of Canadian Currency, supra note 14 at 311-13, 830-41. Truscott’s banking venture seems to have been formed as a partnership, not a joint-stock company.
Upper Canada in 1834 and immediately established a banking company called “the Agricultural Bank” in Toronto. Truscott’s primary motives seem to have been driven more by business ambition than politics, but he soon gained a certain reputation in Reformer crowds for his opposition to the chartered banks. The Agricultural Bank’s first major line of business was a contract with the newly incorporated City of Toronto, which wanted a loan of £1,000 to fund street improvements, to be repaid with anticipated tax revenues. The city had first approached the Bank of Upper Canada and the Commercial Bank, both of which rejected the offer. Ostensibly the rejection was due to the city’s existing debts and doubts concerning its anticipated tax revenues, but doubtless it was also a result of the fact that the Bank of Upper Canada’s arch nemesis, William Lyon Mackenzie, had been elected Toronto’s first mayor. (Fellow radical reformers and future founders of the Bank of the People, James Lesslie and James Hervey Price, were also members of Toronto’s founding government.)"116 The loan opportunity was then presented to the Agricultural Bank and was immediately accepted.

Truscott then turned this bit of competition with the chartered banks into outright conflict through three rather innovative aspects of his business operations. First, the Agricultural Bank adopted the Scottish system of granting clients “general drawing accounts” (akin to a standing line of credit today). This meant that, once a client was approved, within a certain amount, new security did not have to be provided and assessed for every new loan granted to them. Second, it offered interest on deposits at 3 per cent—a practice unheard of in Upper Canada at that time. Both the Gore Bank and the Commercial Bank felt compelled to follow suit, which did not endear them to the new institution. Lastly, Truscott’s company violated existing bank protocol when it held notes of the chartered banks as its reserve, principally notes from the Bank of Upper Canada. When it was short of specie, it would cash in these notes and siphon specie off from the Bank of Upper Canada. “According to the Canadian banking ethics of the time, such methods were deemed dishonourable, and war upon the new institution.”117

Since the enemy of my enemy is my friend, Captain Truscott gained a reputation in Reformer circles, seemingly more for his opposition to the chartered

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117. Shortt, History of Canadian Currency, supra note 14 at 312.
banks than to any specific Reform efforts on his part. As a result, he was enlisted to aid them in running the Farmers’ Joint Stock Banking Company, which some Reformers planned to make part of a broader system of joint-stock banks offering an alternative to the chartered institutions. However, at its first board election, conservatives were elected as both the bank’s president and solicitor, driving a permanent wedge between this institution and the Reform camp. The Reformers immediately abandoned both Truscott and the Farmers’ Bank, and moved to start a new bank that could be immune from any Tory influence. The immediacy and unanimity of their defection underlines the extent to which they saw these not as commercial enterprises but political ones, where loyalty would be an essential virtue.

V. THE BANK OF THE PEOPLE

After these abortive attempts, a committee of Reformers gathered in early August to put together a plan for their own bank. The effort was political from the start. James Lesslie and J.H. Price, well-established Reformers in Upper Canada associated with the more radical caste, sent out letters on 4 August 1835, seeking out names of possible stockholders for “a new Bank, ‘The Bank of the People,’[the “Bank”] which it is determined shall be founded in a manner, which shall insure

118. In its attempts to undermine the Agricultural Bank, the Bank of Upper Canada went so far as to send agents to the countryside to purchase its notes, which it then attempted to cash in large amounts in order to force the Agricultural Bank to suspend payments. Ibid at 834-835.
120. See Breckenridge, supra note 14 at 74. See also William Lyon Mackenzie, Correspondent and Advocate, (27 August 1835); Francis Hincks, Reminiscences of his Public Life (William Drysdale & Co, 1884) at 11 [Hincks, Reminiscences].
121. For Shrauwers, these joint stock companies represented “mini-parliament[s]” that inculcated “notions of responsible government” through its separation of ownership and management.” The joint stock company, on his view, allowed the colonists to practice democratic forms outside the direct purview of the state, and was thereby an “incubator of stakeholder democracy.” See Shrauwers, supra note 14 at 22-23, 171-72.
122. As mentioned above, fellow Reformers in Lower Canada had succeeded in establishing the Banque du Peuple in Montreal just before. For more on that project, see e.g. Ronald Rudin, “Beginnings: 1835-1875” in Banking en français: the French banks of Quebec, 1835-1925 (University of Toronto Press, 1985) 21; Robert S. Greenfield, La Banque du Peuple, 1835-1871, and its Failure, 1895 (MA Thesis, McGill University Department of History, 1968) [unpublished].
unanimity among its friends.” Two months later, the shareholders elected a mix of both moderate and more radical Reformers to the Bank’s board. The Bank’s first president was John Rolph and its first cashier James Lesslie. (The cashier was akin to a general manager position and took care of most of the Bank’s day-to-day operations.) The board also included Speaker of the Assembly, Marshall Spring Bidwell, as well as Thomas Morrison, David Gibson, James Beaty, and others. These well-established board members were a point of pride for the Bank’s core organizers: In his diary, Lesslie proudly announced the founding of the Bank “by some of the friends of liberal constitutionalism,” and stated that its explicit purpose was “to counteract the influence of the monied Corporations which had for every year exercised a very pernicious influence [against] the civil interests of the people.” He further expressed hope that, in particular, the inclusion of John Rolph and Marshall Bidwell (men of “the most enlarged and liberal sentiments”) would “give to the institution a measure of confidence which we hope will secure its ability and usefulness.”

The Bank opened for business exactly three weeks later, on the morning of Monday, 23 November 1835. It set up shop in an office on New Street, then at the heart of the city’s small commercial core—up the street from the market

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123. Letter from James Lesslie and J. H. Price on Behalf of the Bank of the People (4 August 1835), Thomas Fisher Rare Book Library, University of Toronto (Rare Book Collection T-10 00064 no 5).
125. It is clear that both the Bank’s organizational structure and the specific reputation of its directors were key aspects of its identity as a Reform institution. As William Lyon Mackenzie stated in his newspaper: “The Bank of Upper Canada still lingers but is hastening its end…. Not so the People’s Bank, it is open early and late, and two persons seldom meet each other asking for specie within its walls. If it were unable to pay gold and silver, after the Bank of Upper Canada become bankrupt, the people know that each Director is liable in his last dollar, as well as each Shareholder, for every note out, and they also know that Messrs. Lesslie, Doel, Rolph, Beaty, Morrison, Gibson, Hincks, Price, Elliott, Leys, John Montgomery, Barclay, and a few others its stockholders and managers are men of strict integrity and worth thrice the amount of the notes they have in circulation.” “The Old Lady,” The Constitution (24 May 1837).
126. Diary of James Lesslie (23 November 1835), Dundas Museum and Archives (Lesslie family fonds F:0008).
127. Ibid. The notice was also printed in Mackenzie’s newspaper. See Correspondent and Advocate (26 November 1835).
square and around the corner from the stark stone building that hosted the Bank of Upper Canada. Reform newspapers praised the Bank’s establishment from as far away as Montreal and Brockville.

As a marker of how distant the Reformers were at this point from a hard-money anti-corporate position, the Bank soon sought a corporate charter, sponsored in the legislature by Mackenzie himself. While it passed in the Assembly, it unsurprisingly died in Council.

Shaken by these developments, the legislature soon acted to limit the growth of new banks outside of its purview. Declaring that it was “inconsistent” with “the protection of commerce” and “the welfare and security of the Inhabitants of this Province, that, any individual, or any numbers of persons, should be allowed, without Legislative authority, to issue Bills, Notes, or other undertakings for the payment of money intended to form a circulating medium,” any such attempts were deemed unlawful. The statute exempted the existing joint-stock banks by name, including the Bank of the People. Still, this meant effectively that no new joint-stock banks would be established, and that the Bank, while not prevented from issuing its own notes, would have to make do as a joint-stock enterprise. The new rise of joint-stock banks had clearly caught the legislature’s attention, and it acted quickly to cease this new growth.

A. RISE

Soon after its founding, Lesslie moved into the role of president and a new cashier was hired—Francis Hincks, who had moved to Toronto only in autumn

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128. See Assessment Roll, Toronto, St. David’s ward (1836), City of Toronto Archives (Fonds 200, Series 612, File 15); Assessment Roll, Toronto, St. David’s ward (1837), City of Toronto Archives (Fonds 200, Series 612, File 18); Assessment Roll, Toronto, St. David’s ward (1838), City of Toronto Archives (Fonds 200, Series 612, File 22). See also George Walton, The City of Toronto and the Home District Commercial Directory and Register (T Dalton and WJ Coates, 1837) at 3. Both the assessment rolls and Walton confirm that the bank was located on New Street, though they do not include a specific address.

129. For the reprinted notices, see Correspondent and Advocate (26 November 1835).

130. See Upper Canada, Journal of the House of Assembly, 12-2, No 1 (February 19, 1836) at 185, 197, 199.


132. An Act to protect the Public against Injury from Private Banks, Statutes of Upper Canada 1837, c XIII. See also Shortt, History of Canadian Currency, supra note 14 at 315.

133. Ibid at s IV.
of 1832. By coincidence, he rented a home from leading Reformer Robert Baldwin, with whom he would be associated through much of his career. Along with Lesslie, Hincks would become the Bank’s leading light, managing its day-to-day operations, representing it publicly, and regularly testifying before the legislature as to its status. As of this moment, he took on a life-long interest in money and banking and would later become among the most important figures in the development of Canada’s monetary order.

Under Hincks’ management, the Bank was well run. Only a few documents regarding its operations have survived, but we can make some key inferences from the bits that remain. Though a relatively small operation, the Bank was fast growing. In January 1836, one month after its establishment, it had a note issuance of £4,219; a year later, it had grown to £22,141—about 10 per cent of that of the Bank of Upper Canada. A growth of over 500 per cent in a single year. This placed it directly alongside the province’s other joint-stock banks, as well as the chartered Gore bank. We also know that it was established enough by February 1836 to receive an invitation, along with the other local banks, to loan the City of Toronto £2,450 to liquidate outstanding debts and fund sewer improvements, though it was not ultimately selected. Along with this expansion, it offered


136. See Upper Canada, House of Assembly, “Report of the Select Committee to which was Referred the Subject of the Monetary System of the Province,” *Journal of the House of Assembly of Upper Canada* (1837) at iv (“Report on the Monetary System”).


139. See letter of TD Morrison, Mayor of Toronto, to the President and Directors of the Bank of Upper Canada, the Bank of the People, the Commercial Bank, the Farmers’ Bank and to Messrs. Truscott, Green & Co (20 February 1836), City of Toronto Archives (Fonds 200, Series 362, File 1, Item 33). The commission to negotiate the loan only recommended the Bank of Upper Canada. See “Report of the Special Committee to negotiate a loan” (7 March 1836), City of Toronto Archives (Fonds 200, Series 1081, Item 213).
interest on savings accounts at 5 per cent, and managed, over its first two years, to pay a dividend of 4 per cent twice a year to its shareholders. 140

The Bank did not adhere to anything like a hard-money policy, but instead kept a reserve ratio roughly on par with the other Upper Canadian banks. 141 The Reformers behind the Bank clearly did not want to limit the money supply, but to augment it. Francis Hincks made this aim clear in 1838, when he noted that the Reformist complaint about the chartered banks was never due to their over-lending or speculation, but their lack of political accountability: “We have frequently felt it our duty to condemn the management of the Chartered Banks of this Province; but we have no desire to withhold from them the credit of having kept the currency of the Province SOUND.” 142 In other words, the Reformers did not want to return to a commodity money; they wanted to make their own money—and they did.

Every money is addressed to a particular community, and the notes issued by Bank of the People were no exception. They give us a glimpse of the Bank’s projected community, and of the values it meant to express both to that community and more broadly. Here are two surviving examples in Figures 3 and 4.

140. “Second Report on Banking,” supra note 137 at 223. I have used contemporary language referring to savings accounts. In the language of the time, these were termed deposits “payable [a certain number of days] after sight” in contrast to deposits “payable on demand.”

141. See “Report on the Monetary System,” supra note 136. This is contrary to the account offered by Albert Schrauwers, who argues that, because joint stock banks did not have limited liability, they were forced to “adhere to a hard money policy, never issuing more notes then they could redeem” [sic]. See Schrauwers, supra note 14 at 155. As this report shows, every joint stock bank in the province issued considerably more notes than specie they kept in reserve; indeed, some, like the Farmer’s Bank, at times maintained a lower reserve ratio than the chartered banks that were protected by limited liability.

FIGURE 3: BANK OF THE PEOPLE, $1 NOTE, DECEMBER 12, 1836, BANK OF CANADA CURRENCY COLLECTION


FIGURE 4: BANK OF THE PEOPLE, $4 NOTE, 4 OCTOBER 1840, BANK OF CANADA CURRENCY COLLECTION

First off, along with some other banks in the Province, they are listed in both dollars and shillings, attesting to the parallel units of account used in the province. More unusual is that the notes include not only English, but also French, and German. Including French on a bank note in Upper Canada was uncommon, but not unheard of. The Bank of Upper Canada, for example, had included French on some of its notes in the early 1830s when it was contesting for a position in Lower Canada, but had phased French out by around the middle of the decade. The Gore Bank included French on some of their notes as well. In general, however, banknotes were exclusively in English, even in French-speaking Lower Canada, and the inclusion of French here could be understood as a statement of solidarity with French Canadians, and more specifically with their allies behind Le Banque du Peuple in Lower Canada.

Even more unusual is that the notes also include German—something I have not found on any other banknotes in Canadian history. One text from 1896 states that German was included on these notes “for the convenience of the many German settlers on upper Yonge street, Markham and other neighbouring places.” While I have not found any primary sources corroborating this claim, it is true that many supporters of the Reformer cause and the 1837 Rebellion did live in that area. Reform supporters there were primarily small farmers, for whom lack of liquidity was an everyday obstacle and a direct cause of dissent.

Notably absent from these notes is any sign of monarchy or loyalist sentiment. This is a stark contrast from notes of the Bank of Upper Canada, which bore their issuer’s loyalist leanings on their face. In its place, we find more generic images representing commerce and growth, such as Demeter and Vulcan, and growing cityscapes behind bustling ports.

In addition to its regular business, the Bank also acted as a community hub, offering a “city news room” above its premises, open from 9:00 a.m. to 9:00 p.m., where people could read “the leading liberal Journals published in the two Provinces, London, Dublin and Edinburgh,” also the Reviews, Magazines, &c.

143. See Baskerville, supra note 50 at li-liii.
144. J Ross Robertson, Robertson’s Landmarks of Toronto (J. Ross Robertson, 1894) at 391.
146. McCalla asserts that the strong growth following British military expenditures in Upper Canada after the Rebellion indicates that “what happened in 1837 in Upper Canada was a liquidity crisis more than a sign of deep structural flaws in the provincial economy.” Supra note 145 at 192.
and the principal New York Papers.” Interestingly, admittance was subject to unspecified “terms of admission.”

From what scant evidence remains, the Bank seems to have kept its business in line with its political beliefs. Like its contemporaries, the Bank issued notes primarily through lending, and traded in bills of exchange callable on London and New York City, using the firm Phelps, Dodge & Co. as its agent in New York. (This was the Bank’s primary means of augmenting its supply of specie.) Unlike its contemporaries, however, it generally lent either to those within its community or to those cut out by the chartered banks. It early on made a loan to William Lyon Mackenzie to start a new newspaper entitled The Constitution. This paper was first published on the 4 July 1836, and became a beacon for agitation in Upper Canada, regularly publishing commentary on Reform politics and eventually including the proposed constitution for a “Republic of Canada.” The Bank also helped fund the Constitutional Reform Society, established by Reformers to promote education and the “constitutional” mode of government. While the Bank liked to focus its loans and discounts on its regular community, it does not seem to have limited its loans exclusively to its inner cadre. For example, the Bank held an account for well-known merchant and politician W.H. Merritt, who shifted from conservative to more moderate politics during the core years of the Bank’s operations and was certainly not among the core Reformers who first established the Bank.

B. CRISIS & REBELLION

While well-run, the Bank faced two obstacles in 1837 that, together, would lead to its early decline: the global financial panic of 1837 (“Panic of 1837”) and the Upper Canada Rebellion.

150. These notes were endorsed by Price and, it seems, the loan went unpaid until considerably later. See Letter of William Lyon Mackenzie to James Lesslie, Esq (15 May 1846), Toronto, Archives of Ontario (Lesslie Family Fonds, F37).
151. See Longley, supra note 134 at 26. For the importance of voluntary associations to Upper Canada’s public life, see McNairn, The Capacity to Judge, supra note 12 at ch 2.
While the origins and causes of the Panic of 1837 are still disputed, it is clear that it took hold in the spring of 1837 and soon engulfed much of the English-speaking world.\textsuperscript{154} It arrived in Upper Canada by way of the United States. Early that spring, Upper Canada’s newspapers were filled with listings of bank failings throughout the United States and England. New York State’s banks were particularly hard hit and suspended redemption of their notes in May 1837.\textsuperscript{155} (To suspend redemption meant to stop exchanging notes for specie.) At that point, anyone who wanted specie was forced to look elsewhere. Bank notes at the time moved across the Canada-US border rather freely, and individuals unable to acquire specie from their New York bank could exchange their notes for notes from an Upper Canada bank (most often the Bank of Upper Canada), and then redeem them in Toronto. Knowledge of this practice encouraged Upper Canada residents to cash in their notes for coin before foreigners arrived and beat them to it. In this way, bank runs in the United States quickly inspired bank runs in Upper Canada. On a single day in May, the Bank of Upper Canada had to pay out £10,000 in specie—equal to roughly a quarter of its total reserves.\textsuperscript{156} This put pressure on the banks to call in debts to top up their reserves of specie and made them hesitant to lend out more notes until the panic would subside. All of this spelled monetary contraction. Over the course of a single month, roughly one quarter of the entire circulating medium of the province was withdrawn.\textsuperscript{157}

Upper Canada’s banks maintained their position for a time after the panic began, but pressure eventually grew for the legislature to allow them to suspend redemption, which was done in July 1837.\textsuperscript{158} What followed was a continuous chain of suspension and failure. The Commercial Bank suspended payments on 29 September; Captain Truscott’s Agricultural Bank went bankrupt in November;

\textsuperscript{154} Jessica M Lepler provides an excellent overview of the panic and the various evolving prescriptions as to its causes over time. See \textit{The Many Panics of 1837: People, Politics, and the Creation of a Transatlantic Financial Crisis} (Cambridge University Press, 2013).

\textsuperscript{155} See Bray Hammond, \textit{Banks and Politics in America: from the Revolution to the Civil War} (Princeton University Press, 1957) at ch 15.

\textsuperscript{156} Baskerville, \textit{supra} note 50 at lxxix.

\textsuperscript{157} See “Report on the Monetary System,” \textit{supra} note 136 at ii.

\textsuperscript{158} See \textit{An Act to afford relief to certain Banking Institutions heretofore carrying on business in this Province, by enabling them more conveniently to settle their affairs, and for protecting the interests of persons holding their Notes}, Statutes of Upper Canada 1837, c I. This applied to both the chartered and the joint-stock banks. Any bank suspending payments was only permitted to issue notes up to, and not exceeding the amount of its paid-up capital. Originally the lieutenant governor, Sir Francis Bond Head, planned to require that every bank that chose to suspend payments (a) present the government with a full account of its affairs, (b) meet certain reserve requirements, and that (c) the notes of the suspending bank would not be used in government transactions. Though, for the Bank of Upper Canada, this condition was later waived, and the Bank of Upper Canada’s notes were still accepted by government even after its suspension. See Baskerville, \textit{supra} note 50 at C33, lxxxv (Letter of Sir F. B. Head to Banks of Upper Canada, 19 July 1837).
the Farmers’ Bank suspended temporarily in December; and the Bank of Upper Canada, holder of most of the province’s specie, suspended the following March.\(^\text{159}\) While it faced a substantial contraction of its business and its note issue, the Bank of the People has the outstanding distinction of being the only bank in the colony that did not suspend redemption at any point during the crisis.\(^\text{160}\)

The crisis also seems to have inspired a resurrection of anti-bank, hard-money sentiment among Mackenzie and his followers.\(^\text{161}\) In the thick of the panic, he proclaimed that “Gold and Silver seem to have been designed by the Creator as the medium of exchanges,”\(^\text{162}\) and that use of anything other than them for money was inherently suspect. “Banish Banks of issue, and chartered knavery, and you will establish on their ruins the slow but sure system which leads to national prosperity & substantial wealth, and banishes litigation and speculation.”\(^\text{163}\) At one point, he went so far as to openly call on his readers to fuel the panic by redeeming their bank notes for specie as soon as possible, rather than wait “till the New York speculators have taken their last shilling.”\(^\text{164}\) The rebel’s draft constitution, published on the eve of rebellion on 15 November 1837, called for an outright ban on all government chartering of banks, as well as a ban on all small-denomination bank notes.\(^\text{165}\) Mackenzie declared, “when was it that the Banks were not heartily on the side of oppression in Canada!”\(^\text{166}\)

\(^{159}\) See Denison, supra note 38 at 346. The Bank of Upper Canada perhaps made the largest reduction of all. Its note issuance declined from £202,710 in January 1837 to £80,079 in January 1838. See McCullough, supra note 22 at 116.

\(^{160}\) See Shortt, History of Canadian Currency, supra note 14 at 355. See also “Second Report on Banking,” supra note 137 at 212. Without the Bank’s documents available to us, we can only speculate as to how it remarkably sustained itself in this way. From what evidence we have, the Bank’s success in this regard seems largely to have been the result of able management by Hincks, the fact that it lent within a relatively small and trusted set of customers, and the decision to cut back the Bank’s international business early on in the panic. As early as May 1837, the Bank withdrew its funds from its agent in New York City and had already begun to restrict its lending. See Mackenzie, “Failure of Phelps, Dodge & Co.,” supra note 148.

\(^{161}\) Early on in the crisis, Mackenzie printed in his newspaper American calls for the elimination of paper currency in favour of a complete return to specie. See Charles G Ferris et al, “Great Meeting of the People in the Park Friendly to the Constitutional Currency, Gold and Silver,” The Constitution (17 May 1837).


\(^{165}\) As printed in The Constitution (15 November 1837), ss 56-57.

\(^{166}\) Mackenzie, “Exchange Your Bank Notes,” supra note 164.
While never entirely withdrawing his support for the Bank of the People (to which, as we know, he owed a debt), Mackenzie’s support for the Bank became considerably more muted at this time. While “useful,” even this institution reflected a support for bank money that he described himself as being fundamentally against:

[W]e wish well to the Bank itself because it has, to our knowledge been of use to reformers so far as it could act with safety.—Nevertheless, if we could prevent it and all banks from issuing their copper-plate promises to pay the bearer dollars on demand, a pernicious paper currency, injurious alike to the wealth, morals and manners of the country should be no more.\(^{167}\)

In spite of being the only bank in the province not to suspend redemption of its notes, the Panic of 1837 marked the beginning of the end for the Bank of the People—not so much for economic as political reasons. Suspension of payments had the effect of privileging the Bank of Upper Canada over and against its competitors. Payments going outside of the colony generally required specie, regardless of the suspension. As by far the largest suppliers of specie in the province, the chartered banks’ notes were often kept in reserve and redeemed when extra specie was required for export. Now that redemption of those notes was not possible, the only manner by which specie could be acquired was to purchase bills of exchange drawn on a foreign market—most often London or New York.\(^{168}\) Since the Bank of Upper Canada had very nearly a monopoly position on London and New York bills of exchange, the suspension allowed it

167. Mackenzie, “Failure of Phelps, Dodge & Co.,” supra note 148. Later, in the same issue, Mackenzie declared that

[...]

this leads me to say something of the unchartered Banks. If the Gore, U. C. and Commercial Banks break, I do not see how the others can all continue to pay specie. But there is this difference. The firestorm and stockholders are answerable for not more than their undivided funds while any man who holds a Ten Dollar Bill of the People’s or the Farmer’s Bank, may (as I suppose) sue any stockholder or partner in the Court of Requests, and in the case of the People’s Bank the partners are good for ten times the amount they owe, and their concerns are well managed. Still the result of the present run on the chartered Banks will, I think, compel the most firm and secure Bank that could be devised to suspend specie payments, if the chartered Banks sink first (ibid).

168. A bill of exchange was akin to a post-dated check, though it could be bought and sold, often at a discount (this process was therefore called “discounting,” not to be confused with the discounting of promissory notes). If a bill of exchange promised payment of specie from a certain specific bank (most often a bank in London or New York), it could be purchased in order to acquire that payment, and therefore was a means of directly acquiring new specie reserves. “Report on the Monetary System,” supra note 136 at 18 (Testimony of Francis Hincks).
to sell those bills at a premium.\textsuperscript{169} Banks were essentially forced to go through the Bank of Upper Canada in order to expand their supply of specie, requiring them to pay a competitor in order to increase their base of capital or to facilitate international exchange. While the only bank in Upper Canada not to suspend payments during the crisis, the Bank of the People found itself subject to the same restrictions as other banks—ones that explicitly limited its viability and propensity for growth.\textsuperscript{170}

It is telling, however, how much the memory of a government note issue in the form of Army Bills was still present among Upper Canada’s Reformers. When asked to consider possibly allowing banks to suspend redemption of their notes, a Select Committee of the Assembly concluded that it would prefer the colonial government issue debentures (“something similar to the Army Bills during the late war”) to supply a circulating medium as an alternative to directly protecting the banks.\textsuperscript{171} This position was also echoed in a Reform-leaning anonymous pamphlet, “Thoughts on the Banking System of Upper Canada and on the Present Crisis,” that circulated at the time.\textsuperscript{172}

Capitalizing on both the panic and an uprising in Lower Canada, Mackenzie and his followers then launched outright rebellion in December 1837, further jeopardizing the Bank of the People. The Bank’s supporters had always included a mix of radical and moderate advocates. Nevertheless, the connections between it and the rebels were plain: Mackenzie had been one of the Bank’s earliest supporters, and his newspaper, by which the rebellion was organized and in which the rebels’ proposed constitution was published, was itself established with a loan by the Bank. (Not only that, but, as we know, among the first properties destroyed was the home of Doctor Robert Horne, the Bank of Upper Canada’s Chief Teller.) Many of the Bank of the People’s core supporters took a direct part in the rebellion and were afterwards forced to flee the colony; many others not directly involved were arrested on suspicion.\textsuperscript{173} Of the Bank’s original thirteen directors, four were arrested, three fled to the United States, one was fired from

\begin{itemize}
\item \textsuperscript{169} This was a constant complaint of bankers and merchants in government reports on the suspension. See \textit{e.g.} “The Third Report of the Committee on Banking,” \textit{Appendix to the Journal of the House of Assembly of Upper Canada} (1839) at 760-85.
\item \textsuperscript{170} Ibid at 770.
\item \textsuperscript{171} “Report on the Monetary System,” supra note 136 at iii.
\item \textsuperscript{172} See Anonymous (Printed for the Author, 1837).
\item \textsuperscript{173} Hincks, \textit{Reminiscences}, supra note 120 at 20-21.
\end{itemize}
his government post, and another went into hiding. These included several of the Bank’s most well-known supporters, such as John Rolph, who fled to the United States until he was granted amnesty in 1843, and Marshall Bidwell, who would spend the remainder of his life practicing law in New York City. As noted in an 1838 Assembly report, “[i]n case the property of these Traitors is confiscated, the security to the public for the Notes issued by the Bank will be materially lessened.” The Bank also found itself further ostracized by members of the business community. The Bank of Upper Canada, which had previously started taking on a role as a clearinghouse for the province’s other banks, began refusing to accept its notes, as did the Post Office.

C. FALL

The Bank persisted through all of this, maintained by its shareholders, customers, and supporters not involved in the Rebellion. But it was clear that its continued viability was limited, and it was around this time that Lower Canada’s Bank of


176. See Longley, supra note 134 at 32-33. It is possible that this was just an excuse developed after the fact, as at least one source alleges the Bank of Upper Canada had already begun refusing to accept the notes of the joint-stock banks, even before the banking panic that began in the spring of that year. See e.g. Anonymous, supra note 172 at 11.
Montreal began to take an interest in it. An informal agreement between the Bank of Upper Canada and the Bank of Montreal not to expand into the other’s province broke down in 1838, inspiring the Bank of Montreal to want to find some means of establishing a branch in Upper Canada. On 18 March 1839, the Assembly proposed a bill authorizing banks incorporated in Lower Canada to establish branches in Upper Canada, though the council dominated by the Family Compact ensured that it was never passed. This led the Bank of Montreal to seek some other means of establishing business in Upper Canada, and the Bank of the People proved its vehicle. Instead of establishing its own branch, the Bank of Montreal purchased the Bank of the People outright in the spring of 1840.

Hincks stated publicly that the primary reason for the sale was a lack of access to capital to ensure the business’ continued viability, along with the risk to its shareholders who were not protected by limited liability. This was exacerbated by the decision of the legislature to extend the suspension of payments in 1839 and the loss of shareholders due to the Rebellion, forcing the Bank to rely on its competitors to expand its specie reserves and note issue, putting it into an unsustainable position. Therefore, after surviving both a financial crisis and a rebellion, the Bank was sold to individuals that Hincks would describe as holding political views “diametrically opposed to our own.”

177. See Shortt, History of Canadian Currency, supra note 14 at 367. The Bank of Montreal was also likely motivated by the breakdown of a tacit agreement with the Bank of Upper Canada not to expand into one another’s colonies, which broke down when the Bank of Upper Canada established an agency in Montreal in September 1838. See Baskerville, supra note 50 at lxxxvi-vii.


179. The Board of the Bank of Montreal entered a deed of settlement with the Bank, signed in Montreal on 19 May 1840, which was announced the next month in Francis Hincks’ newspaper. See Denison, supra note 38 at 364. See also Francis Hincks, “The Bank of the People,” The Examiner (10 June 1840) [Hincks, “The Bank of the People”].

180. Ibid. An anonymous biographical memo found in the James Lesslie family fonds at Archives of Ontario says much the same: “The smallness of its capital and the great risk to which its stockholders were exposed (as seen in the case of the late Glasgow Bank) led its friends to give it up and about the year 1840 after paying all its stockholders principal and interest it was sold to the Bank of Montreal.” Memorandum of the Notes of the Late James Lesslie, (1880), Toronto, Archives of Ontario (Lesslie Family Papers, F 551 - MU 1720) at 7-8.

181. Albert Schrauwers comes to a similar conclusion about the decline of the bank. See supra note 14 at 206.

182. The Examiner (24 June 1840).
At least in name, the Bank remained an independent organization for a time after its purchase. It also seems that the Bank carried on a considerable amount of its previous business with Reformers under its new ownership. Nonetheless, the Bank of Montreal’s chosen president and cashier were immediately placed at the head of the Bank and it became the Bank of Montreal’s agent in Upper Canada. The Bank’s note designs also changed around this time.

FIGURE 5: BANK OF THE PEOPLE, $8 NOTE, UNDATED

Source: Image provided to the author by the BMO Financial Group Corporate Archives.

Very prominent on this undated eight dollar note, seen in Figure 5, is the Royal Coat of Arms framing the motto of the British Monarchy—a piece of

183. In his paper, Hincks alleges the Bank’s complete independence from the Bank of Montreal during this period, though the record does not fully bear this out. Ibid.

184. A ledger dating from 1841-42 shows that the Bank maintained accounts for many of the Bank’s original activist founders, including James Leslie, James Hervey Price, James Beaty, and Thomas Morrison. See Ledger of the Bank of the People (1841), Bank of Montreal Corporate Archives.

185. See Hincks, “The Bank of the People,” supra note 179. Benjamin Thorne’s signature as president appears on Bank of the People notes as early as October 9, 1840. Some of these notes, furthermore, no longer include German.

186. The $1 note date discussed above is dated 1836 and signed by both Lesslie and Hincks. Its design differs from other $1 notes undated, and ostensibly uncirculated, in the Bank of Canada Currency Collection, indicating a change of note design at some stage. See Bank of the People, “Bank of the People, 1 dollar: 1841,” online: Bank of Canada <www.bankofcanadamuseum.ca/collection/artefact/view/1990.0043.00421.000/canada-bank-of-the-people-1-dollar-1841> [perma.cc/B76U-V4QL].
iconography notably absent from any of the Bank's previous notes.\textsuperscript{187} The Bank's notes continued to be printed in both English and French, and, at least on this eight dollar note, German.\textsuperscript{188} Though, it seems that some other notes did drop German at some point.\textsuperscript{189}

After the Rebellion, the provinces of Upper and Lower Canada were united under the Union Act of 1840, allowing banks to establish branches throughout the united colony. The Bank of Montreal then formally converted the Bank of the People into a branch, assuming all of its outstanding liabilities, including redemption of its notes.\textsuperscript{190} The Bank soon after moved to the corner of King Street and Bay Street—the Bank of Montreal's location to this day. The Bank of the People and the political project it represented was, not only in practice but also in name, concluded.

VI. RESIDUALS

For such a small and short-lived project, the Bank left far-reaching ripples through the lives of its participants, and, through them, is woven into Canada's history. It is remarkable the extent to which many carried the challenge it represented into their future political careers. However, it is also telling that none of them became substantially involved in another private venture to contest the dominance of the chartered banks. This should come as no surprise, given that their primary concern throughout was not commerce, but democratic accountability. Just as they began with attempts to reform their province's money through government initiatives, their later efforts also focused on public rather than private money—and, in at least one case, these efforts were extremely successful. Nevertheless, their brief experiment with the Bank of the People leaves a powerful example for us of the inherently political nature of money and the governance role that money-issuing chartered banks still play today.

\textsuperscript{187} The fact that this note is undated and unsigned suggests that it was never issued, and it differs substantially from the Bank's previous issues. Once the Bank of Montreal changed the bank to formally become a branch, its notes began to be issued in the Bank of Montreal's name. While not conclusive, this strongly suggests that this note dates from after the date that the Bank was Purchased by the Bank of Montreal, but before it was made into a formal branch and renamed.

\textsuperscript{188} This is in contrast to the Bank of Montreal's notes, which were not printed with French at this time.

\textsuperscript{189} See the bank notes discussed, \textit{supra} note 185.

\textsuperscript{190} Extract from Minutes of Meeting of the Board of the Bank of Montreal (19 July 1842), Bank of Montreal Corporate Archives.
After his failed rebellion, Mackenzie fled to the United States, where he remained for over a decade. After the Canadian Parliament passed an amnesty bill for the rebels, Mackenzie made his way back to Toronto—returning permanently in 1850. While he never held as large a presence in Canadian life as in the 1830s, he did sit in the Legislative Assembly of the Province of Canada from 1851 to 1858. His focus on monetary affairs remained throughout his political life, during which he acted as Chairman of the Finance Committee and as the Chairman of Public Accounts.191

Charles Duncombe (author of the 1835 government Report on the Currency and supporter the Bank of the People) led an uprising in Western Ontario that paralleled Mackenzie's in Toronto, after which he also fled to the United States. Along with Mackenzie, he was a leader of the self-proclaimed “Republic of Canada” founded on Navy Island in the Niagara River, and played a major part in the “Patriot War” through the end of 1838. Following this, he moved around the United States, settling eventually in California, where he was elected to the California State Assembly. While in the United States, he revised much of the findings of his Report into a book entitled “Duncombe’s Free Banking: An essay on Banking, Currency, Finance, Exchanges and Political Economy” that he submitted to Daniel Webster.192 In it, he asserts that a true republic can only be established on a republican monetary order, and that “[a]nti-republican, aristocratic, incorporated banking companies have rendered currency a calcareous stone in the granite arch of the republican edifice.”193 Their goal, he asserts, is not to aid the development of the country, but to use their position of privilege as money issuers to “tax the people as much for the use of their credit as they lawfully can.”194 He proposed remedying this through the establishment of a single “United States Bank” with exclusive powers to issue paper notes that would then be distributed not by it, but by smaller establishments that could be freely incorporated throughout the country. Thus, he advocated a complete separation of money issuance from money lending and distribution (the complete “separation of the bank of issue from banks of discount and deposit”). A single,

191. See Kilbourn, supra note 2 at 244-52.
194. Ibid at 82.
government-owned monetary authority would be charged with carriage of the amount of currency in circulation, while private actors would retain their role in its distribution.\textsuperscript{195} General incorporation would ensure that these smaller, private establishments would not be subject to the political favouritism granted institutions like Upper Canada’s chartered banks. This fascinating book gives us a glimpse of how deeply involved these advocates remained with the political nature of currency and its role in a democratic state.

Of all the players in this drama, none proved more important to the future of Canada’s money (nor more underdiscussed) than the Bank’s cashier, Francis Hincks.\textsuperscript{196} Not himself a direct participant in the Rebellion, Hincks was spared exile. He, immediately after, became involved in public life, establishing his own newspaper in 1838, and running for office in the first Parliament of the united Province of Canada in 1841, later holding the posts of Inspector General of Accounts, Co-Premier of the Province of Canada, and eventually Canada’s third Minister of Finance. He would spend the entirety of his long political career advocating for direct government control of currency, and for limitations on the money-issuing powers of commercial banks. He strongly supported a proposal for the Province of Canada to establish a central bank in 1841, championed and oversaw the creation of the colony’s first direct-issued provincial notes, and helped establish Canada’s authority to issue currency outside the purview of British law.\textsuperscript{197} At Confederation, he designed the country’s first unified bank law and championed the need for the newly created federal government to directly issue its own currency (in the form of Dominion Notes), in direct opposition to the banks who fought fiercely to retain their monopoly on money issuance. (Dominion Notes would remain the primary public money in Canada all the way until the opening of the Bank of Canada in 1935.) Shortt stated that Hincks “had more to do with the intermediate and final determination of the character of Canadian banking and currency than any other individual in public life.”\textsuperscript{198} Rarely mentioned, however, is that he began his political career—and begins his Reminiscences of my Public Life with—working as a cashier for the Bank of the People.\textsuperscript{199}

\textsuperscript{195} Ibid at 13.
\textsuperscript{196} See Shortt, History of Canadian Currency, supra note 14 at 883-96.
\textsuperscript{198} Shortt, History of Canadian Currency, supra note 14 at 883.
\textsuperscript{199} See Hincks, Reminiscences, supra note 120 at 11.
There are crucial differences between the time in which these advocates lived and Canada today. The number of banks then was small, as was the province, and the connections between banks and the government explicit. Physical notes carried their issuer on their face. The spectre of debtor's prison hung over many loans. These are substantial contrasts with today, and they should not be overlooked.

Nevertheless, much is also the same. The money power today, just as then, is established and designed by law. While they can no longer issue their own paper money, chartered banks still issue the majority of our daily medium of exchange—now in the form of deposit accounts that we draw from using debit cards and e-transfers. As the primary source of liquidity in our society, these chartered banks decide which projects and enterprises receive funding, and also act as the pathways through which government intervenes in a financial crisis. As with then, most money today is issued through loans from one of these banks, meaning that it comes with an expectation of repayment with interest. Default carries a heavy burden, even without the prospect of debtor’s prison. Official tax or not, these debts must be repaid, meaning that, in this sense, we still pay a tax on the vast majority of our money—a tax not paid to the state, but to one of these few, very large private institutions. Issuing money in this way creates bonds of debt and dependence attaching to each one of us. As with then, every one of us today must either borrow money from a bank or work for someone else who did; in either case, the path of obligation is clear, and banks lie at its centre. We have, quite literally, placed banks at the centre of our national political economy, and not inadvertently, but explicitly, with the legal framework establishing our money.

The Bank of the People was created at a time when money and its issuance were deeply partisan, but the lesson here is not simply that banking in that time and place took on a particularly political dimension, nor that private ventures to contest the dominance of chartered banks should be celebrated. As with Upper Canada’s chartered banks, the Bank of the People was explicitly a colonial project,


201. As noted above, deposit accounts did exist in Upper Canada at the time of the Bank of the People, though the attention drawn on them was much less than banknotes, given the relatively smaller number of daily transactions that took place by cheque or bill of exchange when compared to notes.

and it deserves a critical eye.203 Rather, the period under study is worthy of study because its participants held on explicitly to an insight that we have largely forgotten: that money is always political—that, even when issued by formally commercial entities, it lies at the very heart of our legal and governance order.

203. Brian Gettler has charted how monetary expansion, even when led by money-issuing private entities such as banks, was “the vehicle through which the colonial economy grew in terms of both the economic value it generated and the space it occupied.” Gettler, supra note 10 at 39.