

IN THE SUPREME COURT.

To the President, Directors and Company of the Westmorland Bank, in the County of Westmorland, in the Province of New Brunswick.

Take Notice, that the Petition, of which the annexed document marked A, is a true copy, with the several affidavits in verification thereof, of which the annexed papers marked B, C, D, E, F, are true copies, will be presented to His Honor the Chief Justice of the Supreme Court, or one of the Judges thereof, at the Judge's Chambers in the Law Society's Rooms, in Ritchie's Building, in the City of Saint John, on Tuesday the fourteenth day of May next, at eleven o'clock, A. M., and that the Court will be then and there moved upon the said Petition, and affidavits in verification thereof, to comply with the prayer of the said Petition, and to make an Order for the winding up of the said Bank, under and by virtue of an Act made and passed in the twenty seventh year of Her Majesty's Reign, Chapter 44, intituled "An Act to facilitate the winding up of the affairs of Incorporated Companies."—Dated 24th April, 1867.

(Signed)

GRAY & KAYE,
Attorneys for the Petitioners.

A.

IN THE SUPREME COURT.

To the Honorable the Chief Justice and Judges of the Supreme Court.

The Petition of Thomas W. Daniel, of the City of Saint John, in the Province of New Brunswick, Merchant, and James D. Lewin and Samuel J. Scovil, of the same place, Bankers, with the Reverend William Scovil, of the same place, now absent from the said Province, and John Bernard Gilpin, of Halifax, in the Province of Nova Scotia, Doctor of Medicine, and Henry Stewart, of Digby, in the said Province of Nova Scotia, Esquire, non-residents of the said Province of New Brunswick, Executors and Trustees under the last Will and Testament of Benjamin Smith, late of the said City of Saint John, Money Broker, deceased, of John Armstrong, of the said City of Saint John, Merchant, trading under the name and style of John Armstrong & Co., of Richard M. Longmaid, of the City of Saint John aforesaid, of the Treasury Department, William Allan, of Moncton, in the County of Westmorland, Minister of the Gospel, and of William H. Steeves, of the City of Saint John aforesaid, Merchant;

Respectfully Sheweth,—

1. That the President, Directors and Company of the Westmorland Bank are a Banking Corporation, carrying on business at Moncton, in the County of Westmorland, in the Province of New Brunswick, under and by virtue of an Act of the Legislature, 27th Victoria, Chapter 1, passed in March in the year of our Lord one thousand eight hundred and fifty four, intituled "An Act to incorporate sundry persons by the name of the President, Directors and Company of the Westmorland Bank of New Brunswick, in the County of Westmorland."

2. That your Petitioners, Thomas W. Daniel, and James D. Lewin, and Samuel J. Scovil, as Executors and Trustees, with William Scovil, John Bernard Gilpin, and Henry Stewart, before named, under the last Will and Testament of Benjamin Smith, deceased, are *bona fide* Stockholders in the said Bank of forty two shares of twenty five pounds each, representing four thousand two hundred dollars.

3. That the said John Armstrong is a *bona fide* Stockholder in his own right in the said Bank to the extent of ten shares of twenty five pounds each, representing one thousand dollars.

4. That the said Richard M. Longmaid is a *bona fide* Stockholder in the said Bank of eight shares of twenty five pounds each, equal to eight hundred dollars; That the said William Allan is a *bona fide* Stockholder in the said Bank of ten shares of twenty five pounds each, equal to one thousand dollars; and that the said William H. Steeves is a *bona fide* Stockholder of eight shares of twenty five pounds, equal to eight hundred dollars.

5. That the Capital Stock of the said Corporation, to the amount of fifteen thousand pounds of the said Province of New Brunswick, was duly paid up as required in and by the second section of the said Act, and the said Bank duly commenced, and has been carrying on business at Moncton aforesaid since its incorporation in the year of our Lord one thousand eight hundred and fifty four, under the said Act.

6. That owing to pecuniary embarrassments and other causes, the said Bank, in the month of March last past, failed in its engagements for the payment of its debts, is now insolvent, and unable to meet its pecuniary engagements and liabilities.

7. That on the fifteenth day of March last past, as your Petitioners have been informed and believe, there was only remaining in specie in the said Bank, or owned by or under its control or direction any where, thirty dollars and fifty two cents; Exchange and Paper of other Banks, four hundred and eighty eight dollars and forty three cents; and on the thirteenth day of April instant, there only remained in the said Bank in specie, or owned by or under its control, eleven dollars and seventy nine cents.

8. That as your Petitioners have been informed and believe on the twenty fifth day of March last, Bank Notes of the said Westmorland Bank, payable on demand, which had been issued and were in circulation, to the amount of one hundred and seventy seven dollars, and on the tenth and twelfth days of April instant, to the amounts severally of two hundred and thirty three dollars, and two hundred dollars, were presented at the counter at the said Bank for payment, and payment demanded and payment

thereof refused on the ground, as the fact was, that the said Bank had no Specie or Current Paper to pay the same; and that at other times between and since those periods other Bank Notes of the said Westmorland Bank have been presented for payment and payment refused on similar grounds.

9. That as your Petitioners have been informed and believe there were on the thirty first day of March last outstanding in circulation Notes of the said Westmorland Bank to the extent of eighty one thousand five hundred and thirty six dollars unpaid.

10. That as your Petitioners have been informed and believe Stock was originally issued to the full extent allowed by the Charter of the said Bank, viz. sixty thousand dollars, of which amount eight hundred dollars have been surrendered to the said Bank and is now held by the said Bank.

11. That in addition to the liabilities on the said Notes referred to in section 9, there is due to various depositors, as your Petitioners have been informed and believe, the sum of eleven thousand three hundred and thirty two dollars and ten cents, and in addition thereto the sum of seven thousand six hundred and ninety two dollars and eighty three cents, to one Daniel M'Kenzie, who has demanded payment of the same, and since the said fifteenth day of March last has taken legal proceedings for the recovery thereof, payment thereof having been refused on the grounds hereinbefore set forth, making the total amount of liabilities for Deposits nineteen thousand and twenty four dollars and ninety three cents; That in addition to the aforesaid liabilities, the Bank of New Brunswick claim to be creditors of the said Westmorland Bank in the amount of fourteen thousand five hundred and fifty one dollars and forty five cents, which claim your Petitioners believe to be valid.

12. That the supposed available assets of the said Westmorland Bank, consisting of Bills receivable, and all other Real and Personal Property of every description, are valued at, as your Petitioners have been informed and believe, one hundred and fourteen thousand seven hundred and two dollars, and its supposed liabilities amount to one hundred and sixteen thousand four hundred and ninety nine dollars and ninety four cents, as arrived at by a Committee appointed by the Stockholders of the said Westmorland Bank held on the first day of April instant, which Committee examined into the affairs of the said Bank.

13. That four several suits for undisputed claims have been commenced against the said Bank since the fifteenth day of March last, for the recovery of amounts claimed to be due from the said Bank to the parties bringing such suits.

14. Your Petitioners allege that three fourths of the Capital of the Company have been lost or become unavailable.

15. That your Petitioners as Stockholders as above set forth, are liable under the said Act of Incorporation, as they have been informed, to be made contributories towards the payment of the debts of the said Bank.

16. Your Petitioners allege that it is absolutely necessary, in order to prevent still greater losses and sacrifices to your Petitioners and the other Stockholders of the said Bank, and a greater sacrifice of its remaining assets, and to prevent a great many suits being brought against the said Bank, and thereby diminishing its available means of payment, and to put a stop to much litigation, that the business of the same should be at once brought to a close.

Your Petitioners therefore pray that the affairs of the said Company may be wound up under and by virtue of an Act made and passed in the twenty seventh year of Her Majesty's Reign, Chapter 44, intituled "An Act to facilitate the winding up of the affairs of Incorporated Companies," and they refer to the affidavits attached hereto, and which they pray may be taken as a part hereof, in support of their Petition.

And as in duty bound will ever pray.

(Signed)	T. W. DANIEL,	} Executors
"	J. D. LEWIN,	
"	S. J. SCOVIL,	} Trustees.
"	JOHN ARMSTRONG,	
"	WILLIAM ALLAN,	
"	WM. H. STEEVES,	
"	R. M. LONGMAID.	

Dated 23rd April, A. D. 1867.

B.

IN THE SUPREME COURT.

Thomas W. Daniel of the City of Saint John, Merchant, James D. Lewin and Samuel J. Scovil of the same place, Bankers, John Armstrong of the same place, Merchant, William Allan, of Moncton, in the County of Westmorland, Minister of the Gospel, Richard M. Longmaid of the said City, of the Treasury Department, and William H. Steeves of the same City, Merchant, whose signatures are subscribed to the annexed Petition, severally made oath before me, that the said signatures thereunto affixed are respectively the handwriting of them, the said Petitioners, and that the facts and statements set forth and made in the said Petition are true to the best of their knowledge and belief.

Sworn severally by the above	(Signed)	T. W. DANIEL,
named Deponents, Thomas W.		J. D. LEWIN,
Daniel, James D. Lewin, Samuel		S. J. SCOVIL,
J. Scovil, John Armstrong, Wm.		J. ARMSTRONG,
Allan, Richard M. Longmaid, and		WILLIAM ALLAN,
William H. Steeves, at the City		R. M. LONGMAID,
of Saint John, this 23rd day of		WM. H. STEEVES.
April, A. D. 1867, before me,		

(Signed) H. LAWRENCE STURDEE,
A Commissioner, &c. Supreme Court.