

# MAINE STATE LEGISLATURE

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# DOCUMENTS

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# THE LEGISLATURE,

OF THE

# STATE OF MAINE,

DURING ITS SESSION

**A. D. 1835.**

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*AUGUSTA:*  
WILLIAM J. CONDON,.....PRINTER.

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1835.

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**FIFTEENTH LEGISLATURE.**

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**NO. 38.**

**HOUSE.**

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**STATE OF MAINE.**

The Joint Standing Committee on Banks and Banking, to whom was referred "the Report of William D. Williamson, one of the Commissioners appointed to examine the doings and transactions of the several incorporated Banks in this State," have had the same under consideration, and ask leave to

**REPORT:**

That they take pleasure in expressing their conviction, from an examination and consideration of the Report of the Commissioner, as well as the Returns of the Directors of the several incorporated Banks in this State, as they existed on Saturday, preceding the first Monday of January, 1835, that they are on a safe and solid foundation, and are managed on correct and accustomed modes of Bank-

ing, with the exceptions which will be hereafter mentioned in this Report. Your Committee believe that Banks, being public Institutions, clothed with the high power of furnishing the currency of the State, should, at all times, be watched with a jealous eye, and every deviation from the salutary provisions of their Charters, ought to be detected and exposed, and, if persisted in, to subject them to a forfeiture of Charter. *Honestly and prudently managed*, they are extensively beneficial to the community, by stimulating industry and enterprise, by furnishing capital to the safe and deserving, at a low and uniform rate of interest. *Dishonestly and imprudently conducted*, or with a view to exorbitant gains, they become the curse of the productive classes, and whenever they fall into the hands of individuals, who forget that they exercise their powers for the public good, and within certain limits prescribed by law, and pervert these powers to speculating on the wants or misfortunes of others, they will deserve, and must expect to be denounced to the public. In proportion as Banks have the power to do *much good*, so is their power of inflicting *great evil* on the community. It is, at all times, and under all circumstances, the duty of the *many* to take care that the power given to the *few*, be not abused. Corporations, it is said, have no conscience, and experience and observation teach us, that, as a general remark, it is true where individuals associ-

ate together to effect an object, they have little of that feeling of responsibility to conscience and public opinion, which operates on individuals. Hence, in times of distress and pecuniary pressure, Banks may have less sympathy for the sufferings of those about them, and their conduct be less generous and upright than that of individuals. In such times, when individuals are willing to take loans on any terms, however extravagant and ruinous, the temptation to Banks to engage in brokerage and usurious transactions is exceedingly strong, and we regret to be constrained to say, that one of our Banks, as appears by the Commissioner's Report, has yielded to this temptation, and been engaged in *such* transactions.

By the general law, regulating Banks and Banking, all Banks are prohibited from taking "any greater rate of interest, or discount, on any note, draft, or other security, than at the rate of six per cent. per annum;" but in discounting drafts, they are allowed to "charge over and above, the ordinary rate of interest the *then existing* rate of exchange between the place where such draft may be discounted, and the place where the same is payable." By the same law, the Bank Commissioners, appointed by the Governor and Council, are required "to inquire into, and examine the doings and transactions of the Banks, and whether there has been any departure by Brokerage or otherwise, from the

ordinary business of Banking associations, and if, upon such examination, it shall be found, and after a full hearing of the Bank thereon, be determined by the Legislature, that the Bank has exceeded the powers granted or failed to comply with any of the rules, restrictions, and conditions provided by law, the Charter may, thereupon be declared forfeit and void.”

The Commissioner in his Report, presents four cases of drafts, and three of notes, discounted at the Central Bank in Hallowell, within a period of two months, all of which appear to your Committee to have been *Brokerage transactions*. We give in the words of the Commissioner's Report, two instances of Drafts, and one of a Note, discounted. “Two drafts dated September 29th, 1834, and drawn on a gentleman in Roxbury, Mass. each for \$3000, payable one in three months, and the other in six months, were discounted, on which were reserved and taken, \$207, whereas the legal discount including three days grace, would be only \$136. In each of these cases, the Cashier, A. Leonard, says the excess is reserved and taken, as the existing rate of exchange between that Bank, and the place of payment.” “A note given December 14th, 1832, by men, inhabitants of Minot, in this State, for \$3919 80, payable with interest at Kenduskeag Bank, Bangor, in two years, was discounted November 15th, 1834, a month before maturity,

on which was reserved as discount, \$20 43.”  
 “The excess of interest taken on this note, the Cashier says, was considered as equivalent to the exchange.”

The President of the Central Bank, appeared before your Committee, in behalf of the Bank. He stated, that when the Bank was examined by the Commissioner, the debts due to it did not exceed double the amount of its Capital Stock, actually paid in. That the Bank some years ago discounted for the benefit of the Warden of the State Prison, one F. Bryant’s note for \$1699, on which a suit was afterwards commenced in Philadelphia, in the name of the Bank against Bryant, and that pending this suit, the Warden paid over to the Bank, the amount of the same, and that though the debt still remains on the Books of the Bank as a debt due, it, in fact, belongs to the Warden, or rather the State. This explanation is perfectly satisfactory to your Committee, inasmuch as it shews the debts due the Bank at that time, less by \$1334 40, than by law they might have been. He also gave the same explanation or excuse, for the excess of interest taken by the Bank, on the drafts and notes, as was given by the Cashier to the Commissioner—and added that the Directors of the Bank, in these discounts, supposed they conducted according to the usages of other Banks in this State, and that he had understood that other Banks on the Kennebec, and at

other places, were accustomed to exact like terms in similar cases. In relation to the two drafts above mentioned, your Committee are well satisfied that, at that time, the exchange between Hallowell and Roxbury, was *in favor of, and not against* the former place; and that as regards the note above referred to, if it had been properly subject to exchange, by analogy to drafts or inland Bills, the sum actually reserved and taken was excessive, and is not to be justified or excused by any law or usage. Your Committee entertain no doubt that these are clear cases of usury and brokerage, and by the provisions of the law above cited, would justly subject the Bank to a forfeiture of its Charter—but they would not recommend that any measures should *now* be instituted by the Legislature for this purpose.

Your Committee regret to say they have some reason to apprehend that similar *vicious practices* have crept into the management of some—they hope not many—of the Banks in this State; and though no case has been distinctly proved to your Committee, or regularly presented for their consideration, yet they have also some reason to apprehend that some of our Banks, sometimes refuse to make loans on notes of hand, secured by sureties, or endorsers, but require of their borrowers, Drafts payable in ninety or one hundred and twenty days, payable in Boston; when, at the same time, it is well understood by all the parties, that such drafts



are not founded on ordinary commercial transactions, and to be paid from their proceeds when at maturity, but are, in effect, what are called *accommodation loans*, and are expected to be repeatedly renewed. The consequence is, they are not expected to be paid in Boston, when at maturity, and the borrowers are willing to pay, and are expected to pay, to the Bank, such a premium for the indulgence of renewal, as the Bank shall see fit to exact; this premium varying from 1-2 to 2 per cent. In such cases, the Bank exacts a premium from the borrower on the alleged ground that it will cost him more to remit his money to Boston and pay his draft there, than to pay the required premium; for he is told and truly so, that the Bank has a right to send his draft to Boston, and if not paid at maturity, to have it protested, and then he must pay the expenses of protest, as well as three per cent. given by law as damages. It will be readily perceived, that as a large proportion of those accustomed to avail themselves of Bank loans, usually expect an extended credit of from two to twelve months, they will, under this *new system of Bank tactics*, be at all times under the power and control of the Banks, and will be obliged to submit to the required terms. This practice has not probably prevailed to any considerable extent, till within eighteen months past, and has grown out of the great pressure in the money market, and the demand for money on any terms, however ruinous and

extravagant. But while your Committee cannot forbear expressing their decided opinion, that this practice is an abuse of proper Banking principles, and a perversion of the trusts confided to these public Institutions, and might justly subject them to a forfeiture of their Charters, they feel justified in saying they have full confidence in the entire *soundness* of the Banks in this State, and in the well known intelligence and integrity of the Directors.

Banks may undoubtedly discount drafts, given in the ordinary course of business, and resting on a fair business basis, and such transactions are mutually beneficial to Banks and borrowers. In such cases they may very properly charge, in addition to interest, the *fair* rate of exchange existing between the place where discounted and where payable; *but if they will keep themselves within the limits of their charters, they must take care not to charge for exchange a higher rate than actually exists—or where none exists—or, to convert this privilege, given by law for useful purposes, into an occasion or instrument for usurious or extortionous practices.*

The Committee take satisfaction in commending the industry and fidelity of the Commissioner, who has recently examined into the doings and transactions of the Banks, and his independence in exposing and denouncing such abuses as came under his observation. If these abuses have grown out of the

great pressure on the money market during the past year, and the consequent rage for exorbitant interest on the part of individuals possessed of capital, or if they have crept into any of our Banks *through inadvertence, as we would charitably hope*, may we not presume that, after the Legislature shall have expressed their decided disapprobation of such abuses, all aberrations from correct and honorable Banking principles and usages will, in future, be avoided? And have we not a still further assurance that, if any Banks in this State, after being thus admonished, shall be hereafter found guilty of any practices at variance with the sound principles of Banking, or violatory of their chartered privileges, the Commissioners appointed to examine into their doings will not fail carefully to inquire into such departures, and faithfully to report the same for the determination and action of a future Legislature?

Having strong convictions of the great utility of Banking Institutions to the people of our State, when properly conducted, and being anxiously desirous that their usefulness may be continued, your Committee would have been unfaithful to the trust confided to them, if they had failed, however unpleasant the duty, to present to the Legislature the facts and views contained in this Report.

T. BOUTELLE, per order.

STATE OF MAINE.

HOUSE OF REPRESENTATIVES, }  
March 4, 1835. }

The foregoing Report was read and ordered to lie on the table; and thereupon, on motion of Mr. Perkins of Kennebunk-Port, *Ordered*, that the Clerk of this House cause 1000 copies thereof to be printed, and that one copy be distributed to each Bank in this State, and the remaining copies among the members of the Legislature.

[Extract from the Journal of the House.]

Attest,

JAMES L. CHILD, CLERK.

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WM. J. CONDON....PRINTER TO THE STATE.

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