

MAINE STATE LEGISLATURE

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Charles F. Rice
DOCUMENTS

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THE LEGISLATURE,

OF THE

STATE OF MAINE,

DURING ITS SESSION

A. D. 1840.

AUGUSTA:

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1840.

TWENTIETH LEGISLATURE.

NO. 23.

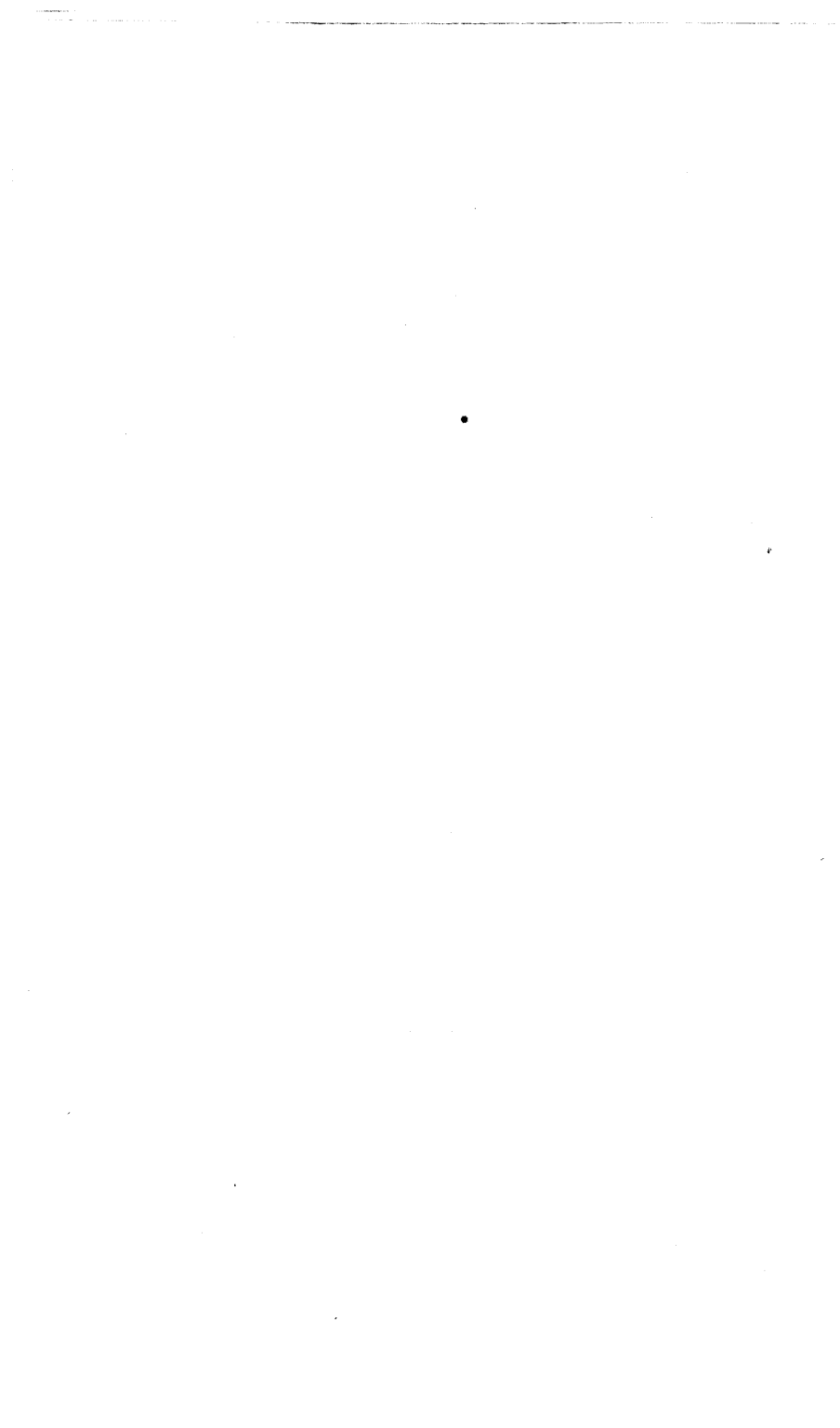
SENATE.

A N A C T

RELATING TO

BANKS AND BANKING.

[Wm. R. SMITH & Co.....Printers to the State.]



STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED
AND FORTY.

AN ACT additional to Acts regulating Banks and Banking; and also for a limited time, to suspend certain provisions of an Act entitled an Act prohibiting the emission and circulation of Bank bills of a small denomination and certain others, passed March 19, 1836.

SECT. 1. *Be it enacted by the Senate and House of Representatives in Legislature assembled,* That if any Bank, that is or may be incorporated under the laws of this State, by or through its officers, shall, at any time, suspend the payment of its bills or deposits, or refuse to pay the same, in specie, on demand at its counter, in its usual hours of business, such Bank shall, at the same time, suspend and cease to perform any and all of its banking operations,

11 for all and every purpose of paying out or part-
12 ing with, directly or indirectly, by discount or
13 otherwise, its monies or means of every name :
14 and, its banking operations, as aforesaid, shall
15 continue suspended, until such bank shall resume
16 the payment of its bills and deposits, and actually
17 pay the same on demand in full, promptly in
18 specie, as aforesaid.

SECT. 2. *Be it further enacted,* That it
2 shall be the duty of the Bank Commissioners,
3 on being informed, that any bank in this State
4 has suspended the payment of its bills or depo-
5 sits, or refused to pay the same as aforesaid,
6 forthwith, to repair to such bank and examine
7 strictly and minutely, into its condition; and as
8 soon as may be, report the same, in writing, to
9 the Secretary of State, stating to the best of their
10 judgment, the cause or causes of its suspension
11 or refusal to pay its bills or deposits, as afore-
12 said. And, it shall be the duty of the Secre-
13 tary of State, forthwith, to transmit a true copy
14 of said report to the State printer, to be pub-
15 lished in the State paper ; and, also, to lay said
16 report before the Governor and Council at their
17 next meeting.

SECT. 3. *Be it further enacted*, That, if
2 upon examination as aforesaid, the Commis-
3 sioners shall be satisfied, that any Bank, exam-
4 ined as above provided, is unable to pay its
5 debts, they shall, forthwith, make complaint of
6 such Bank, in writing, to any Judge of the
7 Supreme or District Court, whose duty it shall
8 be, forthwith, to proceed, as provided in the
9 thirty-third section of an Act to regulate Banks
10 and Banking, approved March thirty-first, A.
11 D. eighteen hundred and thirty-one. And the
12 Commissioners who may be appointed by such
13 Judge, shall proceed agreeably to the provisions
14 of the thirty-third and thirty-fourth sections of
15 said act. And, if any Bank shall continue to
16 suspend, or refuse to pay its bills or deposits as
17 aforesaid, longer than thirty days, it shall forfeit
18 its charter, and the same is hereby declared for-
19 feited; or if, having resumed the payment of
19 its bills and deposits, within the thirty days afore-
20 said, it shall again suspend, or refuse to pay the
21 same, within six months thereafter, it shall for-
22 feit its charter. And it shall be the duty of the
23 Bank Commissioners, or either of them, in
24 either case, as aforesaid to make complaint forth-
25 with, to any Judge of the Supreme or District

26 Court, whose duty it shall be, thereupon, forth-
27 with, to cause the President and Cashier of
28 such Bank to be notified to appear before him,
29 at such time and place, as he may appoint, and
30 as soon as may be, allowing reasonable notice
31 thereof, to answer to such complaint. Such
32 Judge shall, also cite the complainant to appear
33 to support his complaint; and if satisfied of the
34 fact, that such Bank has in either case, as pro-
35 vided in this section, forfeited its charter, such
36 Judge shall thereupon appoint Commissioners,
37 as provided for in the thirty-third section of an
38 act to regulate Banks and Banking, approved
39 March thirty-first, A. D. eighteen hundred and
40 thirty-one, and for the purposes specified in the
41 thirty-third and thirty-fourth sections of said
42 act. And said Commissioners, so appointed,
43 after being qualified to act, shall proceed as
44 therein required, to take possession and close
45 up the concerns of such Bank. And in all cases
46 of forfeiture of charter by any Bank, on any
47 complaint, as provided by law, the same pro-
48 ceedings shall be had, as are herein provided.
49 And, the private property of all the Stockhold-
50 ers in any Bank having forfeited its charter, as

51 aforesaid, and, of all persons or Corporations,
52 having held stock in such Bank, within one year
53 previous to such forfeiture, shall be holden for
54 the payment of the liabilities of such Bank, for
55 an amount, equal to the amount of stock, so
56 held by such persons or corporations.

SECT. 4. *Be it further enacted,* That, it
2 shall be the duty of such Bank to deliver to the
3 Commissioners appointed to close its affairs, on
4 demand, all the books, papers, property, estates
5 and demands of such Bank. And, if any Pres-
6 ident, Director, Cashiers or other officers or
7 servant of any Bank, in this State, shall violate
8 any of the provisions, heretofore contained in
9 this Act, he or they so offending, shall, on con-
10 viction, be punished by imprisonment for not
11 less than three, nor more than ten years, and
12 shall forfeit all his or their private property, for
13 the use and benefit of the creditors of such
14 Bank, and the Commissioners appointed to
15 close up the concerns of such Bank, after such
16 conviction shall have power to commence and
17 defend suits at law, for the recovery and pos-
18 session of such property, and shall proceed, to
19 sell such private property, in the manner, pro-

20 vided for the sale of corporate property, by the
21 thirty-third and thirty-fourth sections of an Act
22 entitled an Act to regulate Banks and Bank-
23 ing, approved March thirty-first, A. D. eigh-
24 teen hundred and thirty-one. And, no sale
25 or transfer, of any of the private property of
26 such offending officers or servants, made, after
27 such Bank has refused the payment of its bills
28 or deposits in specie ; (if such refusal shall
29 result in the appointment of Commissioners,
30 to close its concerns, shall be valid against
31 the claims of the creditors of such Bank, or
32 shall be a bar to, or invalidate the sale of such
33 property, by Commissioners, as above provided.

SECT. 5. *Be it further enacted,* That if the
2 Commissioners, so appointed, shall be unable,
3 within one year, to pay the debts due from such
4 Bank by the collection of debts due to such
5 Bank and the sale of corporate property, as
6 heretofore provided, or by the sale of the private
7 property of offending officers as heretofore pro-
8 vided ; then, they shall give notice to the Stock-
9 holders and to persons or corporations having
10 held stock as heretofore provided, to make up
11 whatever deficiency may exist ; and in case they
12 neglect to pay such deficiency, within thirty

13 days after such notice, the said Commissioners
14 shall cause suits to be commenced in their name,
15 in behalf of the creditors of such Bank, against
16 any of the Stockholders, or those having held
17 stock, as heretofore provided; and, shall prose-
18 cute the same to final judgment; Provided,
19 nevertheless, judgment shall not be rendered on
20 any suit for more than the amount of stock so
21 held, and the costs of prosecution.

SECT. 6. *Be it further enacted,* That all
2 Banks whose charters have expired, or may
3 hereafter expire, or whose charters have been,
4 or may hereafter be surrendered, shall continue
5 subject to all the provisions and penalties here-
6 tofore contained in this act, during the two
7 years allowed their stockholders to act in their
8 corporate capacity, for the purpose of closing its
9 concerns; and it shall be the duty of the Bank
10 Commissioners to examine and proceed against
11 any such bank, in the same manner, as against
12 banks whose charters have not expired or been
13 surrendered.

SECT. 7. *Be it further enacted,* That from
2 and after the first day of July next no bank that
3 is or may be incorporated in this State, shall

4 issue any bills, make any loans, or renew more
5 than seventy per cent. of any demands due it,
6 when the amount of its bills in circulation and
7 its liabilities for deposits, (special deposits ex-
8 cepted) compared with the amount of specie in
9 its vaults, shall exceed the ratio of five to one.
10 And, that from and after the first day of July,
11 A. D. eighteen hundred and forty-one, no Bank
12 shall issue any bills, make any loans or renew
13 more than seventy-five per cent. of any demands
14 due it, when the amount of its bills in circula-
15 tion, and its liabilities for deposits, (special
16 deposits excepted) compared with the amount
17 of specie in its vaults, shall exceed the ratio of
18 four to one. And that from and after the first day
19 of July, A. D. eighteen hundred and forty-two,
20 no Bank shall issue any bills, make any loans,
21 or renew more than seventy-five per cent. of
22 any demands due it, when the amount of its
23 bills in circulation, and its liabilities for deposits,
24 (special deposits excepted) compared with the
25 amount of specie in its vaults, shall exceed the
26 ratio of three to one, or three dollars of bills in
27 circulation, and deposits, to one dollar of specie
28 in its vaults. And, no deposit shall be consid-

29 ered a special deposit, unless the same shall be
30 made and remain under the seal or lock of the
31 depositer, and such deposit shall not be used as
32 a part of the available funds of the Bank. And,
33 all the bills of a Bank, taken therefrom, for any
34 purpose whatever, shall be entered in its daily
35 account and be deemed a part of its circulation.

SECT. 8. *Be it further enacted,* That, if
2 any Bank shall violate the provisions of the
3 seventh section of this act, it shall forfeit its
4 charter. And it shall be the duty of the Bank
5 Commissioners, to make complaint, in the same
6 manner; and the Justice, to whom such com-
7 plaint is made, shall proceed in the same manner,
8 as is heretofore provided by this act, for closing
9 the business of Banks that have forfeited their
10 charters, by refusing to pay their bills or deposits
11 in specie. And, the officers and servants of
12 such Banks, and all the Stockholders, and per-
13 sons or corporations, having held stock in such
14 Bank, shall be subject to all the liabilities,
15 restrictions and penalties, in such case made and
16 provided.

SECT. 9. *Be it further enacted,* That the
2 Cashiers of each Bank, shall keep an account

3 showing the amount of the daily receipts and
4 disbursements of its specie, specifying the pur-
5 poses for which the disbursements were made,
6 and by balance, the amount of specie remain-
7 ing in its vaults, at the close of each day's trans-
8 action; and he shall also keep a daily account
9 of its bills, issued and returned, showing by bal-
10 ance, the amount in circulation at the close of
11 each days' transactions, and also a similar
12 account of its receipts and disbursements, on
13 account of deposits; and also, a daily account
14 of its loans and receipts. And whenever any
15 violation of the seventh section of this act, shall
16 be shown by the accounts aforesaid, it shall be
17 conclusive evidence of the fact, against the Bank.
18 And if any Bank shall violate any of the pro-
19 visions of this section, it shall be liable to a fine
20 of not less than one hundred, nor more than
21 one thousand dollars for each and every offence.

SECT. 10. *Be it further enacted,* That
2 whenever the Cashier of any Bank shall file a
3 certificate, under oath, with the Secretary of
4 State, that a majority of its Stockholders have
5 voted, at a legal meeting called for that purpose,
6 to reduce the capital stock of said Bank, a sum

7 which shall be specified; it shall then be the
8 duty of the Governor and Council, as soon as
9 may be thereafter, to appoint two Commission-
10 ers for the purpose hereinafter mentioned, at the
11 expense of such Bank. And it shall be the
12 duty of such Commissioners, to examine the
13 condition and situation of the funds, property
14 and liabilities of such Bank, for which purpose,
15 they shall have access to the vaults, books and
16 papers, belonging to the same; and shall have
17 a right to put any questions to the Cashier, and
18 other officers of such Bank, under oath, that
19 they may deem necessary and proper, relating
20 to the funds and liabilities of the same. And,
21 after such examination, the Commissioners shall
22 proceed to select such demands or securities
23 belonging to such Bank, as they shall consider
24 of the least value, to the amount of the reduc-
25 tion of capital stock, that the Stockholders of
26 such Bank may have determined upon, and
27 shall place the demands or securities, so selected,
28 at the disposal of the officers of such Bank, in
29 order that the proceeds of the same may be
30 divided among the Stockholders. Provided,
31 however, if the remaining funds and securities

32 of such Bank shall not be deemed sufficient to
33 discharge all its liabilities, and leave the stock,
34 so reduced, at par value; then the Commission-
35 ers shall determine what amount of the proceeds
36 of the demands or securities so selected, when
37 collected, shall be retained, as a part of the per-
38 manent funds of such Bank. And, provided
39 also, that no Bank shall be allowed to reduce
40 its capital stock more than fifty per cent. in one
41 year, nor to reduce it, at any time, below fifty
42 thousand dollars.

SECT. 11. *Be it further enacted,* That the
2 said Commissioners shall make their report, in
3 writing, by them certified, under oath, and for-
4 ward the same, to be filed in the office of the
5 Secretary of State. And when the return of the
6 Commissioners shall have been so filed, together
7 with a certificate from the Treasurer of State,
8 that all taxes due the State from such Bank,
9 have been paid up to that time, then the capital
10 stock of such Bank shall be reduced, agreeably
11 to the determination of the Stockholders, and
12 the doings and returns of the Commissione s;
13 the number of shares remaining the same, as
14 they before existed, but reduced in amount

15 in proportion to the reduction of the capital
16 stock.

SECT. 12. *Be it further enacted, That*
2 the provisions of an act, entitled “An Act
3 prohibiting the emission and circulation of Bank
4 bills of a small denomination and certain others,”
5 approved March nineteenth, A. D. eighteen
6 hundred and thirty-six, be so far suspended,
7 that the Banks in this State, may be allowed to
8 issue their own bills of the denomination of two
9 dollars, until the first of January, A. D. eigh-
10 teen hundred and forty-one; and of the denomi-
11 nation of three dollars, until the first of January,
12 A. D. eighteen hundred and forty-two; and
13 also, so far suspended, as to allow the circulation
14 of bills issued by any of the Banks in this State,
15 of the denomination of one dollar, until the first
16 day of January, A. D. eighteen hundred and
17 forty-one; and of the denomination of two dol-
18 lars, until the first of January, A. D. eighteen
19 hundred and forty-two; and of the denomina-
20 tion of three dollars, until the first day of Jan-
21 uary, A. D. eighteen hundred and forty-three;
22 and also, so far suspended, as to allow the cir-
23 culation of bills issued by Banks in other States,

24 of a less denomination than five dollars until
25 the first day of July next.

SECT. 13. *Be it further enacted*, That
2 whenever the Bank Commissioners, or either of
3 them, shall proceed to examine any Bank, in
4 pursuance of law, it shall be the duty of the
5 Cashier of such Bank, and at least one Direc-
6 tor thereof, to attend them, and facilitate such
7 examination, as they may be able. And said
8 Commissioners shall, in every case, in which
9 there is any penalty or forfeiture involved, for
10 any violation or evasion of this or any other Act,
11 in force at the time of such examination, go
12 into a strict and minute examination and
13 enquiry, as to the fact of any such violation, or
14 evasion, or any departure from correct proceed-
15 ings therein; and also touching such other pro-
16 visions of law and regulations, as may seem
17 necessary, that correct proceedings should be
18 particularly observed therein. And in all cases
19 it shall be their duty, on discovery of any depar-
20 ture from the provisions of law or correct
21 proceedings, in any respect, by any Bank, to
22 report the same, stating the particulars thereof,
23 to the Secretary of State, to be laid by him

24 before the Governor and Council and Legisla-
25 ture of the State. And no person shall be
26 appointed to the office of Bank Commissioner,
27 or discharge the duties thereof, who has been a
28 President, Director or Cashier of any Bank,
29 within four years, immediately preceding such
30 appointment, under penalty of forfeiting all
31 remuneration for services, performed under such
32 appointment.

SECT. 14. *Be it further enacted,* That any
2 fine for any violation of this act may be recov-
3 ered by indictment, to the use of the State,
4 when upon the complaint of the Bank Commis-
5 sioners, and when upon the complaint of any
6 other person, one half to the use of the com-
7 plainant and the other half to the use of the
8 State. And all Acts and parts of Acts incon-
9 sistent with the provisions of this Act are hereby
10 repealed.

STATE OF MAINE.

IN SENATE, Feb. 29, 1840.

This Bill was read once, and

ORDERED, That 600 copies of the same be printed for the use
of the Legislature.

[Extract from the Journal.]

Attest: WILLIAM TRAFTON, Secretary.