

# MAINE STATE LEGISLATURE

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DOCUMENTS

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THE LEGISLATURE

OF THE

STATE OF MAINE,

DURING ITS SESSION

**A. D. 1843.**

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*AUGUSTA:*

WM. R. SMITH & Co., PRINTERS TO THE STATE.



1843.

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TWENTY-THIRD LEGISLATURE.

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No. 47.]

[SENATE.

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A N A C T

RELATING TO

BANKS AND BANKING.



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# STATE OF MAINE.

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

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## AN ACT additional, regulating banks and banking.

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*Be it enacted by the Senate and House of Representa-  
tives in Legislature assembled*—as follows :

SECTION 1. If any bank that is or may be incorporated under the laws of this State shall at any time, neglect or refuse to pay its bills or deposits in specie, on demand at its counter in its usual hours of business, such bank shall, at the same time suspend and cease to pay out or part with, directly or indirectly, by discount or otherwise, its monies or means of every name : and, its banking operations shall continue suspended, as aforesaid, until such bank shall resume the payment of its bills and deposits, and actually pay the same on demand, in specie, as aforesaid.

SEC. 2. The bank commissioners on being informed that any bank in this State has suspended the payment of its bills or deposits, or refused to pay the same as aforesaid, shall forthwith repair to such bank and examine strictly and minutely into its condition,

6 and as soon as may be report the same in writing to  
7 the secretary of State, stating according to their best  
8 judgment the cause or causes which led to its suspen-  
9 sion, as aforesaid. And the secretary of State shall  
10 forthwith transmit a true copy of said report to the  
11 State printer, to be published in the State paper ; and  
12 shall also lay said report before the governor and  
13 council at their next meeting.

SEC. 3. If upon examination as aforesaid the com-  
2 missioners shall be satisfied that any bank is unable to  
3 pay its debts, they shall forthwith make complaint of  
4 such bank, in writing, to any judge of the supreme or  
5 district court, whose duty it shall be forthwith to pro-  
6 ceed, as is provided in section sixty two, chapter sev-  
7 enty seven of the revised statutes. And the commis-  
8 sioners who may be appointed by such judge, shall  
9 proceed according to the provisions of the aforesaid  
10 sixty second section. And if any bank shall continue  
11 to suspend, or refuse to pay its bills or deposits as  
12 aforesaid, longer than thirty days, it shall forfeit its  
13 charter, and the same is hereby declared forfeited ; or,  
14 if having resumed the payment of its bills and depo-  
15 sits, within the thirty days aforesaid it shall again sus-  
16 pend, or refuse to pay the same, within six months  
17 thereafter, it shall forfeit its charter as aforesaid. And  
18 it shall be the duty of the bank commissioners, or  
19 either of them, in either case, as aforesaid, to make  
20 complaint forthwith, to any judge of the supreme or  
21 district court, who shall thereupon, forthwith cause the

22 president and cashier of such bank to be notified to  
23 appear before him, at such time and place, as he may  
24 appoint, and as soon as may be, allowing reasonable  
25 notice thereof, to answer such complaint: such judge  
26 shall also cite the complainant to appear to support  
27 his complaint. And if upon the evidence it shall ap-  
28 pear that such bank has in either case forfeited its  
29 charter, such judge shall thereupon appoint com-  
30 missioners, who, after being qualified, shall proceed  
31 according to the provisions of said section sixty two,  
32 chapter seventy seven of the Revised Statutes. The  
33 private property of all the stockholders in any bank  
34 which has forfeited its charter, as aforesaid, and of all  
35 persons who have held stock in such bank, within one  
36 year previous to such forfeiture, shall be holden for  
37 the payment of the liabilities of such bank, for an  
38 amount equal to the amount of stock so held by such  
39 persons.

SEC. 4. It shall be the duty of such bank to deliver  
2 to the commissioners appointed to close its affairs, on  
3 demand, all the books, papers, estates, demands and  
4 property of every description of such bank. And if  
5 any president, director, cashier, or other officer or  
6 officers or servant of any bank, shall violate any of  
7 the foregoing provisions of this act, he or they so of-  
8 fending shall on conviction thereof, be punished by  
9 imprisonment in the State's prison for not less than  
10 three nor more than ten years, according to the ag-  
11 gravation of the offence, and shall forfeit all his or

12 their private property for the use and benefit of the  
13 creditors of such bank : and the commissioners ap-  
14 pointed as aforesaid to close up the concerns of such  
15 bank, after such conviction shall have power to pros-  
16 ecute and defend suits at law, for the recovery and  
17 possession of such property ; and shall proceed to sell  
18 the same, in the manner provided for the sale of cor-  
19 porate property by chapter seventy-seven of the Re-  
20 vised Statutes. And no sale or transfer of any of the  
21 private property of such offending officers or servants,  
22 made after such bank has refused the payment of its  
23 bills or deposits in specie, (where such refusal shall  
24 result in the appointment of commissioners to close  
25 its concerns) shall be valid against the claims of the  
26 creditors of such bank, or shall be a bar to, or effect  
27 the validity of the sale of such property, by commis-  
28 sioners, as herein provided.

SEC. 5. If the commissioners so appointed, shall be  
2 unable within one year, to pay the creditors of such  
3 bank by collections from the debtors thereof, and by  
4 the sale of corporate property or by the sale of the  
5 private property of offending officers as aforesaid,  
6 they shall give notice to the stockholders and to all  
7 persons who have held stock within one year as afore-  
8 said, requiring them to make up and pay over thereon  
9 whatever deficiency may exist ; and if they neglect  
10 or refuse to pay such deficiency for thirty days after  
11 such notice, said commissioners shall cause suits to  
12 be prosecuted in their name, in behalf of the creditors



13 aforesaid against any or all of the stockholders, or  
14 those who have held stock as aforesaid: *provided*  
15 judgment shall not be recovered in any suit for more  
16 than the amount of stock so held, and costs of prose-  
17 cution.

SEC. 6. All banks whose charters have expired, or  
2 may hereafter expire, or whose charters have been or  
3 may hereafter be surrendered, shall continue subject  
4 to all the foregoing provisions and penalties, during  
5 the time allowed their stockholders to act in their cor-  
6 porate capacity, for the purpose of closing its con-  
7 cerns; and it shall be the duty of the bank commis-  
8 sioners to examine and proceed against any such  
9 bank in the same manner as against banks whose  
10 charters have not expired or been surrendered.

SEC. 7. From and after the first day July next, no  
2 bank shall issue any bills, make any loans, or renew  
3 more than seventy five per cent. of any demands due  
4 it, when the amount of its bills in circulation, and its  
5 liabilities for deposits, (special deposits excepted,)  
6 compared with the amount of specie in its vaults,  
7 shall exceed the ratio of five to one. From and after  
8 the first day of July, in the year eighteen hundred  
9 and forty four, the operations of all banks shall be  
10 subject to the aforesaid restrictions when its liabilities  
11 as aforesaid compared with its specie as aforesaid,  
12 shall exceed the ratio of four to one. And from and  
13 after the first day of July, in the year eighteen hundred  
14 and forty five, the operations of all banks shall be sub-

15 ject to the same restrictions whenever its liabilities as  
16 aforesaid compared with its specie as aforesaid, shall  
17 exceed the ratio of three to one, or three dollars of  
18 bills in circulation and deposits, to one dollar of specie  
19 in its vaults. No deposit shall be considered a special  
20 deposit, unless the same shall be made, and remain,  
21 under the seal and lock of the depositor; and shall  
22 not be used as a part of the available funds of the  
23 bank. And all the bills of a bank, taken therefrom  
24 for any purpose whatever, shall be entered in its daily  
25 account, and be deemed a part of its circulation.

SEC. 8. If any bank shall violate the provisions of  
2 the seventh section of this act, it shall forfeit its char-  
3 ter. And it shall be the duty of the bank commis-  
4 sioners, to make complaint in the same manner, and  
5 the judge to whom such complaint is made, shall pro-  
6 ceed in the same manner as is herein before provided  
7 for closing the business of banks that have forfeited  
8 their charters by refusing or neglecting to pay their  
9 bills or deposits in specie. And the officers and ser-  
10 vants of such banks, and all the stockholders and per-  
11 sons who have held stock in such bank within one  
12 year from the date of the offence, shall be subject to  
13 all the liabilities, restrictions and penalties, in such  
14 case made and provided.

SEC. 9. The cashiers of each bank, shall keep an  
2 account of the daily receipts and disbursements of its  
3 specie, specifying the objects for which the disburse-  
4 ments were made, and by balance, the amount of

5 specie remaining in its vaults at the close of each day's  
6 transactions; and he shall also keep a daily account  
7 of its bills issued and returned, showing by balance  
8 the amount in circulation at the close of each day's  
9 transactions; also a similar account of its receipts  
10 and disbursements, on account of deposits; and also  
11 a daily account of its loans and receipts. And when-  
12 ever any violation of the seventh section of this act  
13 shall appear by the accounts aforesaid, it shall be  
14 deemed conclusive evidence of the fact, against the  
15 bank. If any bank shall violate any of the provisions  
16 of this section, it shall be liable to a fine of not less  
17 than one hundred nor more than one thousand dollars  
18 for each and every offence.

SEC. 10. Whenever the cashier of any bank shall  
2 file a certificate, under oath, with the Secretary of  
3 State, that a majority of its stockholders, at a legal  
4 meeting called for that purpose, have voted to reduce  
5 the capital stock of said bank, an amount which shall  
6 be stated in said certificate, it shall be the duty of the  
7 Governor and Council, as soon as may be thereafter,  
8 to appoint two commissioners for the purposes here-  
9 inafter mentioned, at the expense of such bank.

10 Said commissioners shall forthwith proceed to ex-  
11 amine the condition of the funds, property and liabil-  
12 ities of such bank, for which purpose they shall have  
13 access to the vaults, books and papers thereof; and  
14 shall have a right to examine the cashier, and other  
15 officers, under oath, upon all matters relating to the

16 funds and liabilities of such bank. After such examina-  
17 tion, the commissioners shall set apart for the use of  
18 such bank in its future banking operations, so much of  
19 the means, demands, securities and property thereof,  
20 available for banking purposes, as shall be equal in  
21 specie value, to the amount of the capital and other  
22 liabilities of such bank ; excluding the amount of the  
23 proposed reduction : and shall place the residue at  
24 the disposal of the officers of such bank, that the pro-  
25 ceeds thereof may be divided among the stockholders.  
26 No bank shall be allowed to reduce its capital stock  
27 more than fifty per centum in one year, nor at any  
28 time below the sum of fifty thousand dollars.

SEC. 11. The said commissioners shall make their  
2 report in writing by them certified under oath, and  
3 transmit the same to be filed in the office of the sec-  
4 retary of State. And when the return of the com-  
5 missioners shall have been so filed, together with a  
6 certificate from the treasurer of State, that all taxes  
7 due the State from such bank, have been paid up to  
8 that time, the capital stock of such bank shall be re-  
9 duced agreeably to the decision of the stockholders,  
10 and the doings and returns of the commissioners, the  
11 number of shares remaining the same, but reduced in  
12 amount according to the reduction of the capital  
13 stock.

SEC. 12. Any bank that shall decide by a vote of a  
2 majority of its stockholders, to surrender its charter,  
3 may apply for authority therefor, to the governor and

4 council (such application to be accompanied by a  
5 certificate from the State treasurer of payment of all  
6 taxes due up to the time of such surrender) who shall  
7 be and are hereby empowered and directed to accept  
8 such surrender, upon the following terms and condi-  
9 tions. Such bank shall cease to issue, or in any way  
10 cause to be put in circulation, any of its notes or bills,  
11 or make any loans whatsoever, and shall continue a  
12 body corporate for the purposes of collecting its debts,  
13 selling and conveying its corporate property, and  
14 (after satisfying its liabilities to the public) of dividing  
15 the proceeds thereof among its stockholders; and for  
16 no other purpose whatever, for the term of two years :  
17 during said term it shall have power to prosecute and  
18 defend suits at law and in equity for the recovery of  
19 its debts, and the defence of its property.

SEC. 13. Such bank shall forthwith appoint trustees  
2 to close its affairs, who shall have full powers to act  
3 in its behalf, which trustees, by a vote of the stock-  
4 holders of such bank, shall be empowered to receive  
5 of and from any trustees who may have been pre-  
6 viously appointed, on any reduction of the capital of  
7 such bank, all property, funds or securities, which  
8 have come to their hands on such reduction: and  
9 such trustees shall have all the powers and be subject  
10 to all the duties of receivers as is provided in section  
11 sixty-eight, sixty-nine, and seventy of chapter seventy-  
12 seven of the Revised Statutes.

SEC. 14. Whenever said trustees shall have collect-

2 ed to the amount of ten per cent. of the stock of such  
3 bank, they shall give notice in some newspaper printed  
4 in the county where such bank is located, that they  
5 are ready to pay a dividend on said stock, to the  
6 amount of moneys so collected.

SEC. 15. The bank commissioners shall, once in  
2 each year, or oftener if they deem it necessary, exam-  
3 ine the doings of such trustees, for which purpose,  
4 they shall have access to the books, papers and moneys  
5 of such bank : and such trustees shall be required to  
6 furnish said commissioners with a full and complete  
7 statement of all their doings under said trust, from the  
8 commencement thereof, to the time of such examina-  
9 tion.

SEC. 16. Such bank shall make and execute to the  
2 State treasurer a good and sufficient bond for the sum  
3 of fifty thousand dollars, to be approved by the gov-  
4 ernor and council, and lodged in the office of said  
5 treasurer, conditioned that such bank shall comply  
6 with the provisions of the twelfth, thirteenth, fourteenth  
7 and fifteenth sections of this act, and all laws and pro-  
8 visions therein referred to. And said trustees, for  
9 any violation of the said provisions of this act, shall  
10 be liable to a fine of not less than one hundred nor  
11 more than one thousand dollars, to enure to the use  
12 of the State—and shall further be liable to the stock-  
13 holders of such bank, for all damage resulting from  
14 their neglect or mismanagement ; said liabilities for  
15 fines and mismanagement to be enforced by a prose-  
16 cution of said bond.

SEC. 17. The governor and council shall cause  
2 notice to be published for six months at least in the  
3 State paper, and in some newspaper printed in the  
4 county where such bank is located, of the surrender  
5 of its charter.

STATE OF MAINE.

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IN SENATE, March 9, 1843.

ORDERED : That 300 copies of the foregoing bill, be printed for the use of the Legislature.

ATTEST :

JERE HASKELL, *Secretary.*