

# MAINE STATE LEGISLATURE

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*Wm. F. Hill*  
DOCUMENTS

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# THE LEGISLATURE

OF THE

## STATE OF MAINE,

DURING ITS SESSION

A. D. 1856.

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**PART SECOND.**

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Augusta:

FULLER & FULLER, PRINTERS TO THE STATE.

1856.

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# THIRTY-FIFTH LEGISLATURE.

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HOUSE.

No. 1.

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## MESSAGE FROM GOVERNOR MORRILL,

CONTAINING OBJECTIONS TO

“An act in addition to chapter seventy-nine of the Revised Statutes.”

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### STATE OF MAINE.

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*To the Senate and House of Representatives :*

On the eve of the adjournment of the last Legislature, a bill entitled “An act in addition to chapter seventy-nine of the Revised Statutes,” was passed and presented for my approval. Not satisfied that the bill ought to become a law, I withheld my signature for a more full examination of its provisions, than was then allowed me. It was undoubtedly the intention of the Legislature in passing this bill to guard against frauds and impositions liable to be practiced on the people of this State by insurance companies chartered and organized in other States and jurisdictions, and *not* to make unreasonable distinctions between home and foreign corporations, so that the requirements of the latter would tend directly to deprive our citizens of the aid of these foreign companies which have for many years done business in this State through agents of character and responsibility, who, by a prompt and liberal settlement of all losses which have occurred on risks taken, are

justly entitled to the confidence of the community seeking insurance at their hands. Surely it would not be the dictate of wisdom to seek to drive these agencies from us, while there is such a manifest want of capital invested by insurance companies chartered in this State, nor, is it just to present, by legislation, any unreasonable barriers to these citizens of this State, who of necessity ask protection of foreign companies, with the standing and character of which, they are well acquainted. There can be no doubt that all responsible foreign insurance companies, that desire to establish agencies and do business in this State, would willingly comply with any requirements of law to which similar companies chartered by this State, are made liable, and such additional provisions, as their location out of the State, may reasonably require. That legislation is necessary on this subject I do not hesitate to admit, and should have gladly approved any measure that would secure our citizens against imposition practiced too frequently by foreign insurance companies, wholly unworthy of their confidence, and not, at the same time, impose on the better class of foreign companies, in whose solvency and integrity, long experience has shown that the community may fully rely, such onerous requirements as would cause them to withdraw their agencies from the State. Such was the direct tendency of a law somewhat similar to the bill under consideration, passed by the Legislature of this State in eighteen hundred forty-three, and so dissatisfied were the people with its operation, that its entire repeal was one of the first acts of the next succeeding Legislature.

Sections eight and nine of the bill have the following provisions:

SECT. 8. If insurance shall be made hereafter, by a foreign insurance company without complying with all the requirements of this act which are applicable thereto, the contract shall be valid; but the agent making or procuring such insurance shall be punished by fine not exceeding one thousand dollars, or imprisonment not exceeding six months for each offense; to be

enforced by indictment or by an action of debt in any court of competent jurisdiction, one half of said fine to accrue to the person who may sue or prosecute therefor, and the other half to the State. And if any such company shall neglect, after the first day of June next, to appoint a general agent, agreeably to the provisions of this act, and to furnish him for publication and for transmission to the Secretary of State, the several statements specified in section seventh of this act, at the time therein required, and to comply with all the other duties imposed on such company by the terms of this act, they shall not recover any premium on any contract of insurance with a citizen of this State, or any moneys in the hands of persons acting as their agents in this State, until the said provisions of this act shall be complied with by them.

SECT. 9. Any agent of a foreign insurance company, making insurance in violation of this act, or any law of this State, shall forfeit for each offense, a sum not exceeding five hundred dollars, recoverable in the manner provided in the next preceding section; and every person who for pecuniary or other compensation shall receive or transmit applications or proposals for insurance in any foreign insurance company or make contract for, or receive for delivery, policies founded on proposals or applications, to such company, forwarded by him from this State, shall be deemed the agent of the company within the meaning of this act.

I cannot but regard these provisions as unnecessarily and improperly abridging the rights of our citizens who are compelled to go abroad to effect insurance on their property, which they cannot obtain at home, for the obvious reason that companies do not exist in this State with sufficient capital to take but a very small portion of the risks which are constantly being offered. The aggregate of capital of all the stock companies incorporated in this State is less than three hundred and fifty thousand dollars, by the returns made by said companies to the Legislature in eighteen hundred fifty-five. It is at once seen that the amount of capital is wholly inadequate to be relied on

by the people of this State, to issue policies of insurance on the very great amount of property which annually seeks insurance, and of necessity foreign insurance companies, both fire and marine, are relied on to afford that protection which our own companies are unable to grant. With these facts before us, showing the imperative necessity we are under of seeking foreign insurance, is it wise? Is it reasonable? Is it constitutional, even, to enact that "any person who for *pecuniary* or *other compensation*, shall receive or transmit applications or proposals for insurance in any foreign insurance company, or make, contract for, or receive for delivery, policies forwarded on proposals or applications to such companies, forwarded by him from this state, shall be deemed the agent of the company within the meaning of this act," and be liable to the penalties it imposes? Suppose this bill to become a law and go into effect to-day, or thirty days hence; in the absence of agencies appointed under its special provisions, how are the numerous applicants for insurance on the vast amount of property to be insured, to forward their proposals and premiums, and receive their policies? Certainly not through these agents who have heretofore transacted this business; they will not incur the imprisonment and fine the bill imposes. Can the business be transacted by common carriers or expressmen? If they do it for "pecuniary or other compensation," they are liable to the rigorous provisions of fine and imprisonment. In my judgment the terms of section nine not only prohibit agents of foreign insurance companies from forwarding proposals for insurance, without a full compliance with the general provisions of the act, but directly interfere with, if indeed they do not practically inhibit insurance by our citizens, in companies chartered in other States. Whatever may be the exigency, or however urgent the demand for insurance, or difficult for those seeking it to give personal attention to the subject, they can employ no person for "pecuniary or other compensation" to transmit applications for insurance in any foreign company without subjecting such person to fine and imprisonment as agents of said

company. The provisions of this section effectually close all the ordinary avenues to the transaction of an important class of business and deny individuals the right to employ agents or attorneys to transact their business in their name and stead. Believing that public necessity does not require the passage of a law embracing such extraordinary provisions, I have withheld my approval, and herewith return the bill to the House in which it originated.

ANSON P. MORRILL.

COUNCIL CHAMBER, }  
Jan. 1, 1856. }





STATE OF MAINE.

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HOUSE OF REPRESENTATIVES, }  
January 3, 1856. }

Laid on the table and ordered to be printed.

DAVID DUNN, *Clerk.*