MAINE STATE LEGISLATURE

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November 9, 1922

To Honorable Fred F. Lawrence, Bank Commissioner
Re: Savings Banks Investments

The practical question presented in your letter of the 6th inst., (concerning a corporation which was increasing its capital stock fifteen-fold), is:

Can a corporation with a small amount of capital stock outstanding upon which it has been able to earn and pay regular dividends of not less than five per cent per year, and which thus qualifies its stock as legal for purchase by savings banks, without any authority other than that conferred by the general law, increase the amount of its capital stock to any amount it sees fit, and before paying dividends on such new capitalization, legally claim that such stock is a legal investment for savings banks?

This question is an important one and more of less difficult of solution but we have no hesitancy in saying that we do not believe the framers of the law intended such a result as might be brought about if the question was answered in the affirmative.

The statute restricting savings banks to certain kinds of investments is intended, of course, to safeguard the interests of the depositors in such banks and such a construction should be adopted as will best accomplish that object. It will be noted that in the list of investments enumerated as proper for savings banks serucity of the principal is the first consideration and nowhere is it apparent that it is intended that savings banks funds shall be used for the purpose of promotion of business propositions which however laudable have not the solid security behind them which makes them safe and desirable.

In this connection the lawmakers assumed that a corporation which has been able to earn and regularly pay dividends of at least five per cent upon its stock has such solid features as to make it a safe investment, but while such assumption may be true, the moment such company increases its capital stock to many times what it was when the dividends were earned and paid and without having demonstrated its ability to earn the required dividend upon such increased capitalization, the reason for the assumption fails and such stock loses its standing within the favored class.

We think the statute should be construed as though it read: "which earns and is paying a regular dividend of not less than five per cent a year upon its capital stock", and that it means the capital stock upon which dividends have been paid at the required rate.

The opposite construction, however plausible it appears, would, we fear, work out detrimental to the best interests of the public.

William H. Fisher
Deputy Attorney General