

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

FIFTY-FIRST LEGISLATURE.

SENATE.

No. 20.

MINORITY REPORT OF THE COMMITTEE ON BANKS AND BANKING IN RELATION TO SAVINGS BANKS.

So rapid, and yet so quiet has been the development of savings institutions, that the public was hardly prepared for the statement in the Bank Examiner's report that the deposits at the close of 1871, was \$22,787,802, and the statement is very suggestive to us of the care with which we should adapt our legislation to meet the wants of this growing interest; neither the popular clamor in the one case, nor the plaintive wail which comes up from these banks in the other, that they should be let alone, should be suffered to divert our attention from the importance of maturing a system which shall promote the efficiency of the banks, while it affords every possible security to the depositors; that there are dangers incident to the system, is clearly shown by its workings in England. There the defalcations and cases of mismanagement were so common, and to such an extent, that it led to an entire change in their system, and the establishment of government savings institutions, while in New York there has recently been four heavy failures, in the space of a few weeks, followed by a general distrust of all banks, and withdrawal of funds by thousands of depositors.

The minority of the Committee on Banks and Banking, dissents from the report of the majority for the following reasons:

First, While they regarded some of the provisions of the present law as satisfactory, yet the large number of questions submitted to them, and the importance of the legislation asked for, involved such extensive changes and additions that it seemed better to me to present a new bill embracing all that was really valuable in the present law, with such additional provisions as the best interests of the

banks and the security of depositors seem to demand, properly arranged in divisions under appropriate heads, as being more convenient to those who wish to consult it, than when scattered through different volumes, without any systematic arrangement, as must be the case, if we attempt to accomplish the work by amendments. The advantages of this will be readily seen by members of the Legislature, in the greater facilities for examining the bill submitted as a whole, to determine whether its provisions meet the existing wants, over that of a series of amendments which need to be carefully compared and adjusted to existing laws.

Second, because no restrictions are made in regard to investment of funds. The primary object of these institutions was to furnish a safe investment for a class of persons who were not competent to do this for themselves, and it is a sufficient answer to the question which has been raised, why they should not have the same freedom in this direction that is accorded to other parties, that these institutions have been chartered by the state for the purpose named, and it is the duty of the State to decide the principles on which they shall be governed; and if these investments can be made in a manner which shall advance the general interests of the State, the depositors will indirectly share the benefit. The injury to our State from this very common practice of sending our capital abroad for investment, is too well understood to need discussion in this report.

Third, because no provision has been made for cases where securities on which loans have been made may depreciate in value.

Fourth, because no provision is made applying to banks which loan on securities not authorized by law, as has been the case with some banks for the last three years.

Fifth, because no provision is made to fix the valuation or basis of valuation of investments, to determine the financial condition of the banks and whether they are complying with the requirements of law.

Sixth, because the provision for making extra dividends, while just in principle, would involve an amount of labor and consequently extra expense, which the amount of such dividends would probably not justify.

Seventh, because no provision is made for a uniform date on which examinations and reports from banks shall be made, consequently the annual report of the Bank Examiner cannot give the standing of the bank as a whole, at any given time.

Eighth, because no penalty is attached for neglect on the part of banks to comply with the provisions of law.

Ninth, because the duties, obligations and powers of the Bank Examiner are not defined with sufficient distinctness.

Tenth, because the provision for the Bank Examiner's salary is not a sufficient compensation for his services, if the duties are properly performed.

Eleventh, because no provision is made for relieving the State of the expenses incurred in the oversight of savings banks, and placing it upon these institutions where it properly belongs.

Twelfth, because the provision for compensation to officers of banks is so broad that it is liable to, and undoubtedly would be, grossly abused. There are no limits as to the amount of deposits or reserved funds a bank must have before making such compensation, or as to the character of the service for which it is made.

Thirteenth, because, that while providing for a state tax on these institutions, they have not freed them from municipal taxation; if the majority report should become a law, savings banks would be subject to three forms of taxation, National, State and Municipal.

The minority deeply regrets the necessity for differing from the majority report. It was desirable on a question of so much importance, that we could have unanimously agreed upon some system to meet the existing wants. In submitting this bill to the committee, I did not suppose it was perfect, but I did hope and expect that the principle on which it was framed, would sufficiently commend itself to them, to be at least considered in committee; failing in this, the importance of the subject and the severe strictures which has been made upon the bill, compel me to submit it for the consideration of the Legislature.

C. J. MORRIS.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SEVENTY-TWO.

AN ACT to provide for the organization, supervision and administration of savings banks.

Be it enacted by the Senate and House of Representatives in Legislature assembled, as follows :

SECTION 1. Savings banks incorporated under the
2 authority of this state, may exercise the powers and
3 shall be governed by the rules, and be subject to the
4 duties, liabilities, and provisions contained in the fol-
5 lowing sections, and in the general law relating to
6 corporations so far as the same are consistent with
7 the provisions of their respective charters.

Organization, Officers.

SECT. 2. Any savings bank so incorporated that
2 shall not organize and commence business within one
3 year after the approval of the act of incorporation by
4 the governor, shall forfeit its rights and privileges as
5 a corporation under this act.

SECT. 3. Every such corporation may, at a legal
2 meeting, elect by ballot, any citizen of this state to

3 be a member thereof, and any person may at any
4 annual meeting, cease to be a member by filing a
5 written notice of his intentions so to do, thirty days at
6 least before such meeting. No person shall continue
7 to be a member after removing from the state.

SECT. 4. The members of the corporation shall elect
2 from their number not less than five, nor more than
3 fifteen trustees, who shall hold their office till the next
4 annual meeting of the corporation, which shall be on the
5 second Monday in October in each year or till others
6 are chosen and qualified in their stead. Members may
7 fill any vacancy in the board of trustees at any legal
8 meeting of the corporation, by a vote of two thirds of
9 those present, by ballot. A majority of the corporation
10 or trustees shall constitute a quorum.

SECT. 5. The trustees immediately after their elec-
2 tion shall elect one of their number for president, who
3 shall also be president of the corporation. They shall
4 also elect from their number, or otherwise, a treasurer,
5 and if deemed necessary, an assistant treasurer. The
6 treasurer, and in his absence, the assistant treasurer, if
7 there is one, shall be ex-officio clerk of the corporation
8 and of the trustees, and shall be subject to removal at
9 the will of the trustees. They shall give bonds to the
10 corporation for the faithful discharge of the duties of
11 their offices in such sums as the trustees may decide

12 to be necessary for the safety of the funds. The
13 treasurer and assistant shall receive a compensation to
14 be fixed by the trustees, but the president and trustees
15 shall perform their services gratuitously except as
16 hereinafter provided.

Deposits and Depositors.

SECT. 6. Savings banks may receive on deposit for
2 the benefit of the depositors, all sums of money that
3 may be offered for that purpose by any person, or by
4 any religious or charitable corporation or society, and
5 declare and pay dividends thereon as hereinafter pro-
6 vided, but no deposit shall be received under any
7 agreement to pay any specified sum, interest or
8 dividend for its use.

SECT. 7. Money deposited by a married woman, or
2 minor, is the property of, and to be paid to the depos-
3 itor or order, and is not the property of husband or
4 parents, and such depositors may maintain actions in
5 their own names against the bank to recover their
6 deposits as if not under such disabilities, but this
7 section shall not apply to any money fraudulently
8 deposited by or in the name of any woman or minor,
9 belonging to a third person.

Investments.

SECT. 8. Such deposits may be invested in bonds
2 or interest bearing treasury notes of the United States,

3 or either of the New England States, in any county,
4 city or town bonds in the New England States, which
5 have been issued pursuant to the authority of state law,
6 and the following stocks and securities situate in this
7 state, viz: first bonds of any railroad which has paid
8 cash dividends for two years previous, the stock of any
9 national bank, or first mortgages on real estate or on
10 personal notes with any of the aforesaid securities as
11 collateral. They may deposit on call in any national
12 bank in this state, and receive interest for the same,
13 but the sum so kept on deposit in any one bank
14 shall not exceed ten per cent. of the capital of such
15 bank, and shall not exceed six per cent. of the whole
16 amount of deposits in such savings bank, but no loans
17 shall be made on the security of names alone, or to
18 any one of the trustees of such savings bank.

SECT. 9. Should the stocks or securities on which
2 loans are made in accordance with the provisions of
3 section eight, depreciate in value after making any
4 loan thereon, it shall be the duty of the trustees to
5 require the immediate payment of such loan, or addi-
6 tional security therefor, and no loan shall be so made
7 without stipulation from the borrower that the same
8 shall be subject to the conditions of repayment or of
9 additional security required by this section.

SECT. 10. Any savings bank which has already

2 invested, or made loans on the security of names alone
3 or on collaterals, not in accordance with the provisions
4 of this act, shall exchange such investments and col-
5 laterals, and call in such loans, at a rate not less than
6 twenty per cent. annually, till the whole amount of
7 investments and securities held by them, shall be in
8 accordance with the laws of this state.

Taxation.

SECT. 11. The trustees shall return to the state
2 treasurer under oath, the total amount of their deposits
3 on the first days of April and October in each year, and
4 within ten days thereafter shall pay to the state treas-
5 urer one-fourth of one per cent. on the amount so
6 returned, to be appropriated for the use of schools as
7 provided in chapter eleven section ninety-one of the
8 revised statutes, the first returns to be made to the
9 state treasurer October first of the present year, but
10 all deposits made six months prior to April first in each
11 year shall be exempt from municipal taxation.

Surplus.

SECT. 12. The trustees of every savings bank shall
2 reserve and set apart from the gross amount of gains
3 or profits, not less than one-half of one per cent. per
4 annum on the deposits of such institution, to be held
5 and invested as a surplus fund to meet any contingency

6 in its business, until such surplus shall be equal to five
7 per cent. upon the amount of such deposits ; all losses
8 shall be passed to the debit of this account.

SECT. 13. To determine the surplus held by any
2 savings bank, the bank examiner shall fix the valua-
3 tion or the basis of the valuation on such stock invest-
4 ments, bonds and mortgages, as are in arrears of
5 interest for three months or more, and any and all
6 other assets of whatever nature from the best informa-
7 tion he can obtain concerning their present condition
8 and future prospects, and he may change such valua-
9 tion from time to time according to the known or
10 ascertained facts concerning them.

Dividends.

SECT. 14. No dividend shall be declared or paid by
2 the trustees or officers of any savings bank, except
3 for profits actually earned during the period for which
4 such is made, after deducting the necessary expense
5 incurred in transacting the business of the corporation.
6 The reserve for surplus fund and the semi-annual state
7 tax and the amount of the semi-annual dividend shall
8 not exceed six per cent. annually.

SECT. 15. Any balance of profits remaining after
2 compliance with the provisions of the last preceding
3 section, shall once in three years be divided among

4 depositors on such amounts as have been on deposit
5 for one or more years.

SECT. 16. All savings banks shall make up their
2 accounts semi-annually to the first days of April and
3 October in each year, and all dividends or profits shall
4 be divided, credited or paid to depositors on or before
5 the thirtieth day of April and October respectively in
6 in each year, but it shall be unlawful to declare or
7 allow dividends on any deposit for a longer period
8 than the same has been deposited.

SECT. 17. It shall be the duty of the trustees of
2 every savings bank by a committee of not less than
3 two of their number, to thoroughly examine the books,
4 assets and affairs generally of such savings bank, and
5 report in writing to the bank examiner in such form
6 as he may prescribe, the standing of such bank on the
7 first days of April and October in each year, such
8 report to be verified by the oath of the trustees making
9 such examination, an accurate record of which shall
10 be kept for the inspection of any member of the
11 corporation; but nothing herein contained shall be
12 construed as prohibiting the trustees from requiring or
13 making examination at such other times as they shall
14 prescribe.

SECT. 18. Such reports shall state the total amount
2 of assets and liabilities as they existed on the first

3 days of April and October in each year, and any other
4 fact that the examiner shall require for his information
5 in relation to the operations and condition of any
6 savings bank in the state. If any savings bank shall
7 fail to furnish to the bank examiner any report or
8 statement required by this act, at the time so required,
9 it shall forfeit the sum of fifty dollars per day for
10 every day such report or statement shall be so with-
11 held, and the bank examiner may maintain an action
12 in his name of office to recover such penalty, and when
13 collected the sum shall be paid into the treasury of
14 the state.

SECT. 19. The bank examiner shall, on or before
2 the first day of January in each year, report to the
3 governor a statement of the condition of every savings
4 bank from which a report has been received for the
5 preceding year, and to suggest any amendments to
6 the laws relating to savings banks which, in his judg-
7 ment, may be necessary to increase the security of
8 depositors and the efficiency of savings banks.

SECT. 20. The bank examiner shall annually visit
2 and thoroughly examine and investigate the condition
3 of every savings bank in the state, and he shall certify
4 to the result of such examination upon the records of
5 each bank so examined, and the books, papers, records
6 and assets of every savings bank shall at all times be

7 open to him during the hours of business, and such
8 examination shall always be made without previous
9 notice being given.

SECT. 21. It shall be the duty of the bank examiner,
2 and he shall have power to require of each savings
3 bank, strict conformity to the provisions of this act, or
4 of any law in force in relation to savings banks. To
5 supervise the action of trustees and see that the exer-
6 cise of the discretion vested in them by law is not used
7 to the injury or insecurity of depositors, and generall
8 to exercise diligent inspection over the affairs of savings
9 banks, counsel and advise with the trustees and officers
10 thereof, and in all suitable ways promote their efficiency,
11 security and welfare.

SECT. 22. The bank examiner shall be paid an
2 annual salary of one thousand dollars, which shall be
3 in full for his services, travelling and other personal
4 expenses incurred in the performance of his duty.

SECT. 23. Each savings bank organized and doing
2 business, shall pay five dollars towards defraying the
3 expenses of the bank examiner's department, including
4 examiner's salary, blanks, postage and all other neces-
5 sary expenses in the performance of the duties imposed
6 upon him by this act, and the balance of such expenses
7 shall be paid by them in proportion to the amount of
8 deposits held by them severally. The examiner shall

9 forward to each savings bank, with a copy to the state
10 treasurer, the amount due from the several banks for
11 this purpose, which amounts shall be paid by them
12 into the treasury of the state; but when the deposits
13 of any savings bank are less than ten thousand dollars,
14 it shall be exempt from such contribution.

SECT. 24. If any savings bank shall, after due
2 notice, refuse or neglect to pay its proper share of
3 charges so allotted, then the bank examiner may ma
4 tain an action in his name of office against such
5 savings bank for the recovery of such charges.

Insolvent Banks.

SECT. 25. When a savings institution has not suffi-
2 cient assets to pay all the debts to depositors and
3 others, its trustees or any depositor may file a bill in
4 equity in the supreme judicial court, in term time or
5 vacation, praying for a sequestration and an equi-
6 table distribution of its assets. The court, or a judge
7 thereof may order it served by publication in the news-
8 paper, and for the time designated in the order,
9 requiring the bank and all persons interested, to appear
10 and show cause why said prayer should not be granted.

SECT. 26. After service as aforesaid, the court may
2 appoint a receiver to take possession of all the assets
3 of such institution, and manage and dispose of them
4 as the court directs; existing attachments shall thereby

5 be dissolved and no action can thereafter be com-
6 menced against it, until proceedings under the bill are
7 closed.

SECT. 27. After a decree of sequestration is passed,
2 the court shall appoint commissioners, who are to give
3 notice of the times and places of their sessions as the
4 court orders, receive and decide upon all claims against
5 the institution, and make report to the court of the
6 claims allowed and disallowed, and the amount due
7 each depositor which is subject to exception and
8 amendment as the reports of masters in chancery.
9 When the amount due each person is established, the
10 court shall cause others than depositors to be paid in
11 full, and after deducting expenses, the balance to be
12 ratably distributed among the depositors.

SECT. 28. The trustees and receiver may compro-
2 mise any debt due the institution.

Miscellaneous.

SECT. 29. The treasurer has full power to assign,
2 discharge and foreclose mortgages and convey real
3 estate held as security for loans or the title of which
4 accrued from the foreclosure of mortgages.

SECT. 30. No officer of the corporation shall use or
2 appropriate any of its funds to his own private pur-
3 poses under the penalty imposed by law for embezzle-
4 ment.

SECT. 31. It shall be lawful for any savings bank
2 where deposits amount to five hundred thousand dollars,
3 and that has accumulated a surplus of five per cent.
4 upon its deposits, to pay trustees who render special
5 personal service (beyond the ordinary duty of attending
6 meetings and serving upon committees other than of
7 examination) a compensation of three dollars per day;
8 the trustee or trustees for whom such compensation is
9 voted, shall have no voice in the decision of such
10 question.

SECT. 32. The treasurer shall upon the written
2 request of any overseer of the poor of a city or town
3 in this state, inform such overseer of the amount, if
4 any, deposited in the institution of which he is a
5 treasurer to the credit of any person named in such
6 request who may be at the time a charge upon the
7 state, or any city or town therein, as a pauper.

SECT. 33. The treasurer shall upon the request of the
2 assessors of any city, town or plantation in this state,
3 inform such assessors whether any stocks which have
4 been transferred to, and stand in the name of the
5 savings bank of which he is treasurer, are held by
6 such bank as investments or as collaterals, and if held
7 as collaterals, he shall inform such assessors on whose
8 account they are so held, with the amount of the
9 same.

SECT. 34. All acts and parts of acts inconsistent
2 with this act are hereby repealed.

SECT. 35. This act shall take effect when approved.

STATE OF MAINE.

IN SENATE, February 1, 1872.

Submitted by Mr. MORRIS, and on his motion laid on the table
and ordered to be printed.

SAMUEL W. LANE, *Secretary*.