

MAINE STATE LEGISLATURE

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NEW DRAFT

EIGHTY-FIFTH LEGISLATURE

Legislative Document

No. 1032

H. P. 1432 House of Representatives, March 27, 1931.

Reported by Mr. Sturtevant from Committee on Banks and Banking and laid on table to be printed under joint rules.

CLYDE R. CHAPMAN, Clerk.

New Draft H. P. 780, L. D. 373.

STATE OF MAINE

IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND THIRTY-ONE

AN ACT Amending the Banking Law.

Be it enacted by the People of the State of Maine, as follows:

Section 1. Section one of chapter fifty-seven of the revised statutes is hereby amended by striking out the comma immediately following the word "cause" in the fifth line thereof, and substituting a period in its place; and by inserting in the same line and directly following said period and as the beginning of a new sentence the words 'He shall engage in no other business or profession,' so that said section, as amended shall read as follows:

'Section 1. Appointment of bank commissioner; bond; duty not to disclose information; penalty. The governor, with the advice and consent of the council, shall appoint a bank commissioner, who shall hold his office for four years, and until his successor is appointed and qualified, and who may be removed from office by the governor and council for cause. He shall engage in no other business or profession, and shall not during his continuance in office hold any office in any bank in the state, nor receive directly or indirectly any remuneration or fee of any kind from any bank, banking house, corporation, association, or individual for examining

any property or properties or securities. He shall give bond with sureties or authorized surety company in the sum of twenty thousand dollars, to be approved by the treasurer of state for the faithful performance of his duties, and the expense of securing said bond shall be paid by the state. No information derived by or communicated to the bank commissioner, deputy bank commissioner, or any examiner or employee of the department in the course of official duty shall be disclosed except, first, to United States government officials charged with the duty of supervising national banks; second, to federal reserve officials; third, to banking departments of other states; fourth, to the governor and treasurer of state. Whoever violates the foregoing provision shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than six months or by both such fine and imprisonment.'

Sec. 2. Subsection 1 of section twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of subsection 1, and substituting in place thereof the following:

'I. Government obligations. a—In the bonds and other interest-bearing obligations of the United States; and in the interest-bearing obligations of any debtor or promissor for the payment of the principal and interest of which the faith and credit of the United States government are pledged.

b—In bonds constituting a direct and primary obligation of the Dominion of Canada and in the interest-bearing obligations of any body politic or corporation in Canada the principal and interest of which are unconditionally guaranteed by the Dominion of Canada; provided, that the principal and interest of all the obligations of Canadian origin that may be bought under the authority of this section are payable in the United States at not less than their face value in United States funds.

Sec. 3. Subsection VIII of section twenty-seven of the revised statutes is hereby amended by striking out the whole of said subsection and substituting in place thereof the following:

'VIII. Obligations of telephone companies. a—In the mortgage bonds and other interest-bearing obligations secured by mortgage and issued, guaranteed as to principal and inter-

est, or assumed by any telephone company incorporated under the laws of any state of the United States or of Canada whose property is located chiefly in the United States or Canada; provided,

1. The corporation shall have received gross revenues of at least five million dollars per annum in each of its five fiscal years, or five nearer periods of one year, next preceding the investment.

2. The corporation shall have earned and received a net income, including income from investments, in each of its five fiscal years, or five nearer periods of one year, next preceding the investment, of not less than twice the annual interest on its debt secured by the mortgage under which the bonds in question are issued and all prior liens, and shall not have defaulted on any of its obligations during the same period. The net income of the corporation for the purpose of this subsection shall be determined after deducting all operating expenses, including maintenance and depreciation charges, rentals, taxes, and guaranteed interest and dividends paid by or due from it.

3. Such obligations shall be secured (a) by a first mortgage on at least seventy-five per cent of all the property of the corporation owned in fee; or (b) by a refunding mortgage that provides for the retirement of all the prior-lien bonds outstanding at the date of the investment and covering at least seventy-five per cent of the property owned in fee by the corporation, provided, that all the bonds secured by the refunding mortgage shall mature at a later date than any bonds which it is given to refund or, if any of the refunding mortgage bonds are to mature at an earlier date, the refunding mortgage must provide that they shall be retired by not more than a like amount to be reissued under the refunding mortgage; or (c) by a mortgage that is prior to a refunding mortgage as above described and covers some part of the telephone company property that is included in the refunding mortgage, if the bonds secured by the prior mortgage are to be refunded by the refunding mortgage and the property covered by the prior mortgage is operated as a part of its system by the corporation issuing the refunding mortgage; or (d) by a first mortgage on the property of a lessor company forming a sub-

stantial portion of the system of the operating company, provided, that the term of the lease extends at least five years beyond the date of the maturity of the mortgage.

b—In the collateral-trust bonds of any such telephone company secured by the deposit with a trust company or national bank of bonds and/or of shares of stock of subsidiaries or other telephone companies under an indenture of trust which limits the amount of bonds so secured to not more than seventy-five per cent of the value of the securities deposited, as stated and determined in the indenture; and provided, that the company issuing the collateral-trust bonds shall have received average gross revenues of not less than seventy-five million dollars in each of its five fiscal years, or five nearer periods of one year, next preceding the date of the investment; and provided, further, that the telephone company shall for the same period have earned and received a net income, including income from investments, of not less than three times the annual interest on the bonds in question and all prior liens.

c—Not more than ten per cent of the deposits of any one bank shall be invested in obligations of telephone companies, and not more than two per cent in the obligations of any single telephone company.'

Sec. 4. Section twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by adding thereto the following new subsection to be numbered 'XX':

'XX. Bank stocks. In the capital stock of any bank in this state incorporated under the laws of this state or the United States; and in the capital stock of any bank in any of the other states of New England or in the state of New York incorporated under the laws of any of those states or the United States and located in a city having a population of not less than two hundred and fifty thousand; provided, that any such bank located outside of this state shall be a member of the Federal Reserve Bank System and shall have a capital and undivided profits of not less than ten million dollars.

A savings bank shall not hereafter acquire bank stock, both by way of investment and as security for loans, which, together with its present holdings, shall be in excess of seven and one half per cent of its deposits; nor shall hereafter acquire stock in any one bank which, together with its present

holdings shall have a book value of more than one per cent of its deposits; nor shall hereafter acquire bank stock, which, together with its present holdings, shall exceed ten per cent of the capital stock of any one bank.

Sec. 5. Section thirty of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said section and substituting in place thereof the following:

'Sec. 30. Limitation of real estate holdings. A savings bank may hold real estate in the cities or towns in which such bank or any branches thereof are located, to a total amount not exceeding five per cent of its deposits or to an amount not exceeding its reserve fund; but these limitations shall not apply to real estate acquired by the foreclosure of mortgages thereon, or upon judgments for debts, or in settlements to secure debts.'

Sec. 6. Section thirty-one of chapter fifty-seven of the revised statutes is hereby amended by striking out the word "time" in the last line thereof, so that said section, as amended, shall read as follows:

'Sec. 31. May deposit on call in banks and may deposit collateral for loans made without the state. Savings banks and institutions for savings may deposit on call in banks or banking associations incorporated under the authority of this state, or the laws of the United States, or in any member bank of the federal reserve system located in any of the New England states or the state of New York, and receive interest for the same, and may deposit, subject to the approval of the bank commissioner, with such banks or banking associations any securities received as collateral for loans made to any person or corporations without the state.'

Sec. 7. Section thirty-two of chapter fifty-seven of the revised statutes is hereby amended by adding thereto the following section to be numbered 'thirty-two a';

'Sec. 32a. Savings banks may conduct branch offices. A savings bank may open and conduct branches in the city or town where its main business is located and in other cities or towns in the county of its location, or the adjoining counties; provided that before opening a branch in any other city or town, it shall have received a warrant to do so from the bank commissioner, who shall issue such warrant only when satis-

fed that public convenience and advantage will be promoted by the establishment of such a branch. He may require such notice on an application for a branch as he deems proper. If granted, the commissioner shall issue his warrant in duplicate, one copy to be delivered to the bank and the other to the secretary of state for record. Within ten days after opening a branch, the bank shall file with the commissioner a certificate thereof signed by its president and treasurer. The right to open a branch shall lapse at the end of one year from the date of filing the commissioner's warrant with the secretary of state, unless it shall have been opened and business actually begun in good faith. An application for permission to open a branch shall not be acted upon until the petitioning bank shall have paid to the treasurer of the state the sum of fifty dollars for the benefit of the state, to be credited and used as provided in section eighty-eight of this chapter. Any such branch may be closed or discontinued with the consent of the commissioner, after such notice and hearing, if any, as in his judgment the public interest may require.'

Sec. 7a. Section thirty-two of chapter fifty-seven of the revised statutes is hereby amended by adding thereto the following as a new section to be numbered '32b':

'Sec. 32b. Retiring allowances or life insurance for officers and employees of savings banks. a—A savings bank, by vote of its trustees, may retire any officer or employee who shall have given his whole time to the service of the bank and shall have been continuously in receipt of a regular salary from the bank for twenty-five or more years and shall have arrived at the age of sixty-five years or shall have become physically or mentally incapacitated for the duties of his position; or at any time, if he shall become so incapacitated by reason of injuries suffered by him in the discharge of his duties to the bank. The trustees may pay to him during the remainder of his life, in equal monthly installments a yearly allowance of such amount as they shall see fit, but not more than one-half of his salary at the time of his retirement. If the trustees decide to pay such allowances entirely from the bank's funds, they shall immediately set aside from the reserve fund or other surplus earnings a special fund sufficient in amount, according to actuarial standards, to meet the cost thereof for

any member or members of the bank's staff whose time for retirement has arrived or is near; and yearly, or oftener thereafter shall appropriate from the current earnings and credit to such special fund amounts sufficient to create, as soon as may be and maintain, for the payment of the allowances to the other members of the bank's staff a fund sufficient therefor according to said standards; or, if the trustees prefer, they may enter into an agreement with an insurance company for the setting up of such reserves and the payment of the pensions.

b—Instead of such retiring allowances, the trustees may insure the lives of those officers and employees who give their whole time to the service of the bank. Such insurance shall be placed with a life insurance company and shall be for such an amount for each beneficiary thereof as the trustees may decide.

c—The cost of such allowances or insurance may be paid wholly by the bank; or the trustees may adopt a plan which will provide that some part thereof shall be contributed by the beneficiaries.

d—The plan adopted by the trustees and the insurance company selected to co-operate in its administration shall be subject to the approval of the bank commissioner.

e—Nothing in this section contained shall be held to confer upon any recipient of such allowances or beneficiary of such insurance an indefeasible right thereto; nor shall such benefits be subject to be trusted or brought into suit by his creditors or otherwise; nor may he assign or alienate them.

f—If, in the case of a sale of the assets of the bank or of its merger with another bank or if its standing and condition shall induce or oblige the commissioner or the trustees to have recourse to any of the proceedings provided by sections fifty, fifty-two, fifty-three, fifty-four, fifty-five, fifty-six of this chapter, the status of any such recipient or beneficiary shall be decided by the court; but if the court orders that such beneficial plan shall be annulled, the living individuals who have contributed to the cost thereof shall be entitled to a return of all such contributions together with interest thereon computed as if they had been deposits on savings accounts in the bank. Such return shall be made to them notwithstanding any pen-

sion allowances that may have been paid to them theretofore; and their right to such return shall be a preferred claim upon the assets of the bank.'

Sec. 8. Section forty-two of chapter fifty-seven of the revised statutes is hereby amended by striking out the whole of said section and substituting in place thereof the following:

'Sec. 42. Treasurer to make trial balance weekly; twice yearly, shall record net sum of each deposit. The treasurer of every savings bank shall, on the last business day of every week, make and declare a trial balance, which shall be recorded in a suitable form of record kept for that purpose; and shall also, at least twice in each year, cause to be entered on a suitable form of record the net sum of each individual deposit at a fixed date, and ascertain the aggregate of all such deposits, and whether it agrees with the other books of the bank; and said records shall be open to all times for the inspection of the trustees and the bank commissioner.'

Sec. 9. Section one hundred and twenty-seven of chapter fifty-seven of the revised statutes is hereby amended by inserting after the word "draft," in the third line of said section the words 'or order', so that said section as amended shall read as follows:

'Sec. 127. Time limit on stop payment of checks etc. No revocation, countermand, or stop-payment order relating to the payment of any check or draft or order against an account of a depositor in any bank or trust company doing business in this state shall remain in effect for more than ninety days after the service thereof on the bank, unless the same be renewed, which renewals shall be in writing and which renewals shall be in effect for not more than ninety days from the date of service thereof on the bank or trust company, but such renewals may be made from time to time.'

Sec. 10. Section one hundred and twenty-nine of chapter fifty-seven of the revised statutes is hereby amended by inserting after the word "check" in the third line thereof the words 'or draft or order,' so that said section, as amended shall read as follows:

'Sec. 129. Banks not liable for non-payment of checks through mistake or error, unless actual damage is shown. No bank or trust company doing business in this state shall be

liable to a depositor because of the non-payment through mistake or error and without malice of a check or draft or order which should have been paid unless the depositor shall allege and prove actual damage by reason of such non-payment and in such event the liability shall not exceed the amount of damage so proved.'