

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

PASSED BY THE

THIRTY-FIFTH LEGISLATURE

OF THE

STATE OF MAINE,

A. D. 1856.

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Published by the Secretary of State, agreeably to Resolves of June 28, 1820, February 26, 1840,  
and March 16, 1842.  
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GOVERNOR MORRILL'S MESSAGES.

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 those 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 those 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 those 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 impositions 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 oper-

ation, 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 times 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 1855. It is at once seen that this 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 those 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, }
January 1, 1856. }

To the senate and house of representatives:

On the day of the final adjournment of the last legislature, a bill was passed entitled "an act to incorporate the town of Reed." This bill contemplates incorporating into a town, territory comprising Patricktown Plantation, and a portion of the towns of Whitefield and Jefferson. Having viewed it my duty to withhold my approval of the bill setting off portions of those towns, and annexing the same to said plantation, it would not be proper, I apprehend, for this act of incorporation to become a law, while the territory it proposes to incorpo-

rate with Patricktown Plantation, still belongs to the towns of Whitefield and Jefferson. For these reasons only, I return the bill without my approval, to the senate where it originated.

ANSON P. MORRILL.

COUNCIL CHAMBER, }
January 1, 1856. }

To the senate and house of representatives :

The last legislature passed a bill entitled "an act to set off parts of Whitefield and Jefferson, and annex the same to Patricktown plantation." This bill passed the senate on the 12th day of March, but was not finally laid before me for approval until the eve of the adjournment of the legislature.

The papers which accompany this bill show that the subject was brought before the legislature by the petition of the assessors of Patricktown plantation. That notice was served on the towns of Whitefield and Jefferson, to appear and show cause why the prayer of the petitioners should not be granted. A remonstrance numerous signed by the legal voters of the town of Jefferson was presented, embracing, it is believed, nearly every voter residing on the territory proposed to be set off from Jefferson, and setting forth the facts, and urging as reasons why the prayer of the petitioners should not be granted, that the contemplated line, if established, would cut and divide a large number of farms now in Jefferson, leaving portions of them in the plantation; that it would injuriously divide school districts, and otherwise seriously discommode the inhabitants proposed to be set off from said town of Jefferson. No person living on the territory which the assessors of Patricktown plantation ask to have annexed, are found as petitioners for that purpose.

It also appears that the committee on division of towns, after hearing the parties, on the third day of March, reported "leave to withdraw." This report was amended in the house, and the petitioners allowed to bring in the following bill :

SECT. 1. The following described territory, beginning at Sheepscot river, one hundred and fifty rods from south end of William Gliddon's saw mill, in the town of Whitefield; thence easterly to the south-east corner of Patricktown plantation in the town of Jefferson, is hereby set off from Whitefield and Jefferson, to which said territory now belongs, and annexed to Patricktown plantation.

SECT. 2. This act shall take effect from and after its approval by the governor."

Such is a brief view of the origin of the petition, its opposition and the action of the legislature thereon.

The bill is very imperfectly drawn, and the description and bounds so indefinitely made as to render it impossible for any surveyor with

no other light than what the bill affords, to run the lines intended to be established by the legislature. The point of beginning is to be at Sheepscoot river, one hundred and fifty rods from the south end of William Glidden's saw mill in Whitefield; thence easterly to the south east corner of Patricktown plantation. No further description or courses are given; and how the westerly line of the territory to be set off is to be ascertained and fixed, the bill utterly fails to point out. No westerly bounds are given, and it is most apparent that, should this bill become a law, additional legislation would be required before the limits of the plantation could be ascertained and fixed. I have, therefore, felt it my duty to withhold my approval of the bill, and herewith return it to the house where it originated.

ANSON P. MORRILL.

COUNCIL CHAMBER, }
January 1, 1856. }

To the senate and house of representatives in legislature assembled :

In compliance with the provisions of resolves of the last legislature providing for an amendment of the constitution relating to the elective franchise, approved March 17th, 1855, the governor and council have counted the votes given in on the tenth day of September last in the several cities, towns and plantations in this state, as made out and returned to the office of the secretary of state, on the several questions submitted under said resolves, and I herewith make return thereof to the legislature as required.

ANSON P. MORRILL.

COUNCIL CHAMBER, }
Jan. 2, 1856. }

To the senate and house of representatives :

I herewith lay before the legislature the report of Dr. A. T. Wheelock, who was appointed commissioner to the Paris Exhibition of Industry, under a resolve of the legislature approved March 17, 1855.

ANSON P. MORRILL.

COUNCIL CHAMBER, }
Jan. 4, 1856. }