

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)

Stevens & Sayward
DOCUMENTS

PRINTED BY ORDER OF

THE LEGISLATURE

OF THE

STATE OF MAINE.

1863.

AUGUSTA:
STEVENS & SAYWARD, PRINTERS TO THE STATE.
1863.

FORTY-SECOND LEGISLATURE.

SENATE.

No. 18.

REPORT.

The Committee on Banks and Banking, to which was referred the order of the Legislature directing an inquiry as to what change may be necessary in the banking laws of the State in consequence of the passage of the general banking law by order of Congress, ask leave to submit the accompanying report and bill which are herewith submitted.

The banks of this State for the most part, were chartered for the term of ten years, from October 1st, 1857, by general law, and all of them upon the terms and conditions of the banking law of the State as defined in the 47th chapter of the revised statutes.

By this statute, the Legislature conferred upon the banks, the right to make and issue their bills as money, imposing upon them the obligation at all times to redeem them in gold and silver coin, which at that time was the only legal tender known to the country.

By section 79 of the same chapter, no person unless specially authorized by the Legislature, shall contribute to the funds of, or become members of any company or banking association, for the purpose of issuing notes to be circulated as money, receiving deposits, making discounts or transacting any other business, which banks may transact by virtue of their charters, and all notes or other securities for the payment of money or the delivery of property made to such company or association, or for their use shall be void. Sections 80, 81, 82, all contain provisions fortifying the guarantees so exclusively made in section 79 in favor of the banks.

It will thus be seen that the State in granting charters to the banks, in addition to conferring upon them the right of the sover-

eign to make money, also bestowed additional rights which but for the grants and inhibitions of their charters, could have been exercised by individuals or private associations. The grant of these powers to the banks constitute the whole intrinsic value of their charters, and for these privileges to be exclusively exercised by the banks of this State, within its limits, their charters stipulate that the banks shall pay a semi-annual tax of one half of one per cent., during the term of the grant, and the State on its part, by the 79th section above quoted, guarantees to its banks the exclusive right of issuing paper money within its limits, receiving deposits, making discounts.

Up to the present time, these stipulations for the reciprocal benefit of each party have been faithfully observed, and so far as the power of the Legislature is concerned, this state of things would have continued, but the supposed necessities of the nation, induced the Congress of the United States, for the purpose of providing the means of suppressing the rebellion, to create an entirely new system of banking for the whole country, overriding State guarantees, and imposing upon State institutions such burthens, as superadded to those already existing, will bear most onerously upon all, and with especial severity upon those smaller institutions whose chief profit is derived from their circulation.

Your Committee conceive that the banks of the State are entitled to enjoy to the full all the privileges guaranteed by the State, and if the same are invaded by a superior power, that it is the right of these institutions to demand, and the duty of the State to afford in some form, indemnity for the violation of chartered rights.

Congress has declared that any association of individuals, complying with the terms of the bank act passed in the last days of its existence, may issue in any State bills as currency, and exercise all other functions of banks, which is a clear infringement of the charters of 1857 in this State. The banks, after paying a tax for the privilege of issuing currency, are taxed by the United States for doing so; and the assertion on the part of the United States of the right of taxing the circulation of the local banks is a virtual denial of the right of the State to grant this sovereign prerogative, to institutions of its own creation. That the design of the U. S. banking law, is to drive the local banks out of existence, and to gather the capital of the country in institutions founded upon the bonds of the Government as security for bank circulation, thus

giving the Treasury of the United States the use of that capital, in prosecuting the fearful struggle in which we are engaged, is almost too obvious to require assertion.

Your Committee believe that the State of Maine is too just to insist upon payment for privileges heretofore granted by it, which have been invaded by the General Government in the exercise of its superior sovereignty, and that it is too loyal to throw obstructions in the way of that government in its endeavor to obtain the requisite funds for the prosecution of the war.

Under these circumstances they would suggest that there are two modes by which a solution of this difficulty may be arrived at: 1st. Permitting all such banks as choose to surrender their charters and wind up their affairs, returning their capital to the stockholders, after discharging their other obligations. 2d. To remit to the banks so much of the State tax as shall be equal to the amount paid by them to the United States. With regard to the first proposition, deemed by your committee as the fairest, inasmuch as it restores all parties to their original condition, prior to accepting a charter from the State, it is not believed that very many banks would avail themselves of the right of surrender, if the remission of a portion of the State tax as suggested above could be assured.

That some banks would surrender, there is no doubt. The war has, to a certain extent, changed the course of business so much, that there is not a call for the ordinary banking accommodations. Some institutions find their loan smaller now than at any former period, and this is particularly so in the smaller towns. Although there is supposed to be a great inflation of the currency, probably at no time in the history of the country has business been transacted so nearly for cash, nor have individual liabilities been so small as now. If, then, the business of the State does not, by the changes of circumstances, require the employment of so large a portion of banking capital as heretofore, it would be but a narrow policy on the part of the State, to insist upon banks retaining their charters, to the loss of their stockholders, for the most part citizens of the State, for the mere purpose of exacting an additional tax, particularly when the change has been wrought by circumstances hardly within human control.

But when in addition to the above fact it is taken into consideration, that the State has failed to make good its part of the

contract, it is difficult to discover, why either in law or good conscience, the banks should be required to fulfill the stipulations of their contract with the State, after the guarantees (the very consideration of their contract) have been violated by a power superior to the State. Your committee believe that the banking system of this State in connection with that of the rest of New England, has furnished the community with the most stable and reliable currency that has been enjoyed by any portion of the country.

That a system which has proved itself so good should be entirely and at once subverted would be a most questionable policy even if it could be accomplished without producing such distress among the debtors of the banks as a general winding up of their affairs would beget, but the closing up these institutions cannot be suddenly accomplished without disturbing to a great degree the entire finances of the people of the State. Granting then to such of the banks as wish, the privilege of surrendering their charters, and remitting to those who may choose to continue in business a portion of the State tax equivalent to the tax imposed on their circulation and deposits by the United States, it is believed that only so many banks would retire from business as experience had shown were superfluous, while the State will retain all the banks necessary for the transaction of the business of the people, and the changes made will be wrought so gently and easily as to produce no disturbance in the financial concerns of the community. The relations of the State and the banks have been heretofore of a character reciprocally beneficial to both, but the violent and sudden change of those relations by the action of Congress, demand at the hands of the Legislature their revision in the particulars adverted to in the foregoing report.

It is not for the committee to suggest what, in the event of the denial of justice by the Legislature, would be the measures adopted by the banks, but that they would submit to a confiscation of the property of the citizens of the State entrusted to them without presenting to the highest legal tribunal known to the laws for adjudication, the question, how far a State can be permitted to insist upon the fulfilment of a contract on the part of the banks which it is utterly powerless to perform on its own part, is hardly to be expected.

Per order,

SAMUEL CONY.

STATE OF MAINE.

IN THE YEAR OF OUR LORD ONE THOUSAND EIGHT HUNDRED AND SIXTY-THREE.

AN ACT to authorize the surrender of the charters of existing banks in this state and to remit a portion of the bank tax.

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

SECTION 1. That from and after the first day of 2 April, one thousand eight hundred and sixty-three, 3 there shall be remitted to the several banks of this 4 state such portion of the semi-annual bank tax stipu- 5 lated by their charters, to be paid to the state, as shall 6 be equal to the amount of tax required by the laws of 7 the United States to be paid on the circulation and 8 deposits of such banks to the United States; *provided,* 9 that the sum shall not exceed the amount of one per 10 centum per annum on the capital stock of the bank to 11 which the same may be remitted. The receipt of the 12 proper United States officer of the payment of the tax

13 to the general government on the circulation and de-
14 posits of any bank of this state, shall be evidence of
15 the amount of such payment, and on presentation of the
16 same to the treasurer of state in the months of April
17 and October, he shall credit to the banks producing
18 said vouchers the amount appearing by the same to
19 have been paid, subject to the limitation that it does
20 not exceed the amount of the tax due from such bank,
21 and these vouchers held by the treasurer shall be al-
22 lowed him in the settlement of his account as so much
23 cash.

SECT. 2. Any bank in this state is hereby author-
2 ized by a vote of a majority of its stockholders at any
3 meeting of the same duly called, to surrender its
4 charter, and any banking company so surrendering its
5 charter shall continue in its corporate capacity for the
6 term of two years from the time of filing notice with
7 the secretary of state of the vote to surrender its char-
8 ter, which notice shall be in writing, certified by the
9 clerk of the corporation and filed with the secretary of
10 state within thirty days from the passage of the vote ;
11 and for such term of two years such banking company
12 shall retain all the powers necessary for collecting
13 debts due the corporation, for selling and conveying
14 its property, or for finally closing its concerns.

SECT. 3. Any bank surrendering its charter shall
2 publish for twelve weeks successively in some news-
3 paper printed in the county where said bank is located,
4 and in some newspaper published in the city of Boston,
5 a notice of the surrender of its charter and of the time
6 when its liability to redeem its bills will expire, and
7 the publication of this notice shall commence within
8 two months from the date of the vote to surrender.

STATE OF MAINE.

IN HOUSE OF REPRESENTATIVES, }
March 20, 1863. }

Reported by Mr. CONY, from the Committee on Banks and Banking, and on his motion laid on the table, and 350 copies ordered to be printed for the use of the Legislature.

CHARLES A. MILLER, *Clerk.*