STOCK EXCHANGE PRACTICES

FRIDAY, FEBRUARY 2, 1934

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
BANKING AND CURRENCY,
Washington, D.C.

The subcommittee met at 10:30 a.m., pursuant to adjournment on yesterday, in room no. 301 of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), and Couzens.

Present also: Ferdinand Pecora, counsel to the committee; Julius Silver and David Saperstein, associate counsel to the committee; and Frank J. Meehan, chief statistician to the committee.

Senator COUZENS (presiding). The chairman, Senator Fletcher, is attending a meeting of the Home Loan Bank Board this morning, and has asked me to preside until he gets through with the other meeting.

TESTIMONY OF JAMES O. MURFIN—Resumed

Mr. PECORA. Judge Murfin, will you resume the stand? For the purpose of refreshing my recollection, Judge Murfin, will you be good enough to tell me when you first became a director of the First National Bank in Detroit?

Mr. MURFIN. When it merged with the Peoples' Wayne County Bank.

Mr. PECORA. That was on December 31, 1931, wasn't it?

Mr. MURFIN. Yes.

Mr. PECORA. Prior to that time had you had any connection with the First National Bank in Detroit?

Mr. MURFIN. None.

Mr. PECORA. Were you, after you became a member of the board of directors of that bank, a member of any special committees of the board?

Mr. MURFIN. I served several times as a member of the executive committee. And I was on a special claims committee, that met every Tuesday afternoon to consider past-due accounts.

Mr. PECORA. How was the executive committee of the board constituted?

Mr. MURFIN. The executive officers and a chosen list of directors that were appointed by Mr. Mills, the chairman of the board; and they more or less rotated. But they did not rotate with any degree of accuracy. The board was very large, consisting, I think, of nearly 90 members, and the chairman chose such members of the

whole board as he wished to serve on the executive committee. I think there were either 7 or 9 directors that served on the executive committee, and the executive officers of the bank.

Mr. PECORA. And in this rotating process of service, how long did a director appointed to the executive committee serve on the executive committee?

Mr. MURFIN. Mr. Pecora, that was changed several times. I think last year, if my memory is correct, they served for 2 or 3 months at a clip. Prior to that time they served a month at a time.

Mr. PECORA. Was there a governing committee of the board?

Mr. MURFIN. There was.

Mr. PECORA. Were you ever a member of the governing committee?

Mr. MURFIN. I was not. The governing committee was a permanent committee.

Mr. PECORA. That was a standing committee?

Mr. MURFIN. That was a standing committee; yes.

Mr. PECORA. And its members were appointed by the chairman, or were they elected by the board?

Mr. MURFIN. Well, sir, I don't recall. I think—well, I just don't recall.

Mr. PECORA. What were the essential functions of the governing committee of the board?

Mr. MURFIN. They ran the bank.

Mr. PECORA. They ran the bank?

Mr. MURFIN. Yes.

Mr. PECORA. Was the chairman of the board the chairman of the governing committee as well, either ex officio or by virtue of any provision of the bylaws?

Mr. MURFIN. At one time I know he was not, but whether he did so serve when Mr. Mills became chairman of the board I am not sure. I was never on that committee, never on that board, I mean, and I am not certain enough to answer that question.

Mr. PECORA. Did any of the members of the governing committee receive salaries for serving as such?

Mr. MURFIN. No. They received directors' fees, as I understand, at each meeting.

Mr. PECORA. Do you know how frequently the members of the governing committee met officially?

Mr. MURFIN. No; I do not. Mr. Mills can tell you all those things. I don't know. The executive committee met every other day.

Mr. PECORA. Was the governing committee the managing power of the bank from the time when you first became a member of the board of directors?

Mr. MURFIN. It was.

Mr. PECORA. And it continued to serve in that way?

Mr. MURFIN. It did.

Mr. PECORA. Do you know whether any amendment of the bylaws of the bank corporation was specially made in order to equip the governing committee with the power to run the bank, which you say it had?

Mr. MURFIN. I so understood, but I have no detailed knowledge of it. I know that that was the plan, that the governing committee was to have primary charge of questions of policy, and it ran the bank.

Mr. PECORA. Did that plan become effective before you became a member of the board of the bank or afterward?

Mr. MURFIN. I think it was part of the original set-up, Mr. Pecora, when the two banks merged.

Mr. PECORA. That would, then, be coincidental with your becoming director of the consolidated bank?

Mr. MURFIN. Yes.

Mr. PECORA. Do you recall what change was made in the bylaws at that time which was designed to give the governing committee the power of management which you say it had?

Mr. MURFIN. I do not. Mr. Long is in the room, and he drew what changes there were in the bylaws, and he could tell you all about that. I know almost nothing about it.

Mr. PECORA. Well, was the change in the bylaws made by the board of directors?

Mr. MURFIN. I think—well, now, I am quite certain, that this governing committee was set up as a part of the original organization when those two banks came together.

Mr. PECORA. How frequently did the board of directors of the bank meet after you became a member?

Mr. MURFIN. Every month.

Mr. PECORA. That is, once a month?

Mr. MURFIN. Once a month.

Mr. PECORA. And were those monthly meetings held continuously throughout the year 1932 and up to the time that the receiver was appointed for the bank?

Mr. MURFIN. They were.

Mr. PECORA. Do you know how frequently the governing committee met?

Mr. MURFIN. No; I do not.

Mr. PECORA. Was it the routine procedure for the governing committee to make written reports to the board at the monthly meetings of the board?

Mr. MURFIN. Correct. Before each director there was placed this typewritten—well, very substantial portfolio it was, in which was disclosed what the governing committee had done, and the action of the executive committee.

Mr. PECORA. Those statements or reports were left in the board room by the directors, I presume?

Mr. MURFIN. That is true.

Mr. PECORA. They did not take them away with them?

Mr. MURFIN. We were requested not to take them away with us.

Mr. PECORA. Now, you gave some testimony with respect to the bank, its condition, and other things relating to the bank, before the so-called "one-man grand jury" in Detroit last summer, didn't you, Judge Murfin?

Mr. MURFIN. I was a witness; yes, sir.

Mr. PECORA. You testified at that time, I presume, of your own volition?

Mr. MURFIN. The prosecuting attorney sent for me. I did not wait to be escorted over by the sheriff, but a young man in the prosecutor's office came and asked me to come and testify. And it came like that (snapping thumb and forefinger), and he did not give me 5 minutes, and I just went over there.

Mr. PECORA. Hadn't you expected to be called as a witness up to the time you were requested to appear?

Mr. MURFIN. I had not.

Mr. PECORA. Had you indicated your desire to testify prior to the time when you were called?

Mr. MURFIN. Quite the contrary. I did not know why I was called there, or why I was called here. The contrary was that many officers and executives knew a hundred times as much about it as I did.

Senator COUZENS. Judge Murfin, I can tell you why you were called here. It was because at the time you were called here we did not have the committee's report on the examination of Mr. Verhelle's private and confidential report.

Mr. MURFIN. That is what Mr. Pecora told me on yesterday.

Mr. PECORA. Judge Murfin, were you during the year 1931, or, rather, during the year 1932 and up to the time that the receiver for the bank was appointed—which, I believe, was in March 1933, wasn't it?

Mr. MURFIN. The receiver was appointed in May. The conservator went in in March.

Mr. PECORA. Had you kept yourself currently posted as to the condition of the affairs of the bank?

Mr. MURFIN. I did, except for the year 1932, when I had this attack of phlebitis, which laid me up the last week in May and I did not get down but 1 hour until January.

Mr. PECORA. Until the following January, in 1933?

Mr. MURFIN. Yes.

Mr. PECORA. Do you recall the general substance of the testimony you gave in that so-called "one-man grand jury" proceeding last year?

Mr. MURFIN. Oh, I recall it in general. I was mad, and lost my temper, as one often does in such a case, and was sorry that I did.

Mr. PECORA. Well, there was no one there bully-ragging you to cause you to lose your temper, was there?

Mr. MURFIN. No. I was not bully-ragged at all. I did the bully-ragging on my own account.

Mr. PECORA. I have had the pleasure of reading the testimony you gave before that one-man grand jury within the last 24 hours, and I could not see anything in the line of questioning to which you were subjected that would ordinarily cause a witness to lose his temper.

Mr. MURFIN. Well——

Mr. PECORA (continuing). Was your loss of temper due to any instance that you can recall?

Mr. MURFIN. I do not know that this is a proper inquiry for this committee, is it?

Mr. PECORA. Well——

Mr. MURFIN (resuming). I might say——

Mr. PECORA (continuing). If you do not want to answer the question, I will not press it.

Mr. MURFIN. During this period of the one-man grand jury the city of Detroit was agog with talk and gossip and recriminations and calling of names, and there was a spirit of controversy wherever one went. You could go to your club and you heard nothing else than

something of this kind: Why did he say that? Why didn't he say the other? The town was seething. I do not believe it would be profitable to stir up things that should not be stirred up.

Mr. PECORA. Well, do you think the subject matter of the testimony which you gave in that one-man grand jury proceeding is something wholly unrelated to the purpose of this inquiry?

Mr. MURFIN. I would think so. This inquiry is only justified on the ground that you are eliciting information in aid of framing legislation. And what a poor bank director said last July would not aid you in framing any legislation.

Mr. PECORA. Well, in order that anybody may properly and appropriately frame legislation, it would be advisable to have a factual basis, wouldn't it?

Mr. MURFIN. Correct.

Mr. PECORA. And this committee, as you undoubtedly know, is charged with the mission of inquiring into banking customs and practices generally. You know that, don't you, Judge Murfin?

Mr. MURFIN. I suppose so.

Mr. PECORA. Now, the one-man grand jury proceeding to which reference has been made was a proceeding that had to do with banking conditions in the city of Detroit, and throughout the State of Michigan generally, in recent times.

Mr. MURFIN. The 1-man grand jury in Detroit was supposed to inquire into the causes for the closing of the Detroit banks and why they could not get them reopened.

Mr. PECORA. Who initiated that proceeding?

Mr. MURFIN. Oh! There was more or less quite a clamor about it, and some of the newspapers took it up, and finally, after some considerable newspaper agitation, the attorney general of the State came in and asked for a grand jury. Then there was a colloquy as to whether it would be a secret grand jury or an open grand jury, or as to whether they could have an open grand jury; and they monkeyed around about it and decided to have this 1-man grand jury; and about this time the prosecuting attorney stepped into the picture, and I think the general feeling in Detroit, if I may use a colloquialism, was that he stole the show from the attorney general. It was quite a circus. It gaves the newspapers copy and it kept the town stirred and kept the people irritated, and what was said and done there would not help here.

Mr. PECORA. Do you know what prompted the attorney general to initiate the proceeding? Was it, for instance, by reason of any request made of him to do so by the bank or by any of the officers or directors of the bank?

Mr. MURFIN. I am quite sure it did not come from the bank or any of the officers or directors of the bank. I am quite sure it was because of the public clamor, superinduced by the newspapers fanning the flames. I am quite certain it was not brought about by any request of any bank or the officers of any banks.

Mr. PECORA. Do you recall having given expression to opinions about different matters you were questioned about in that one-man grand jury proceeding?

Mr. MURFIN. I do not recall what you mean as I have not read a lot of the testimony. I don't think I even had a copy of it. I may

have a copy of it at home, I don't know, but I haven't seen it since. If you had read it within the last 24 hours you know more about what I said than I do.

Mr. PECORA. I simply asked you if you recalled having expressed any opinions that were stated by you in the course of your examination.

Mr. MURFIN. Oh, yes. I expressed several opinions.

Mr. PECORA. And do you adhere to those opinions today, or have you had any occasion to revise them in any way?

Mr. MURFIN. If you will ask me about the particular opinion you want to know about I will answer.

Mr. PECORA. Can't you tell me generally whether or not the opinions you entertained when you testified before that one-man grand jury proceeding, are the opinions that you have today on those subjects?

Mr. MURFIN. Insofar as my testimony went affecting the solvency of the bank on the 14th of February 1933, I am still firmly of the opinion that the bank was thoroughly solvent and should have been allowed to go on in business. I haven't changed my mind on that question one particle.

Mr. PECORA. Have you made a study of the condition of the bank upon which you based that opinion?

Mr. MURFIN. I thought at the time I knew something about it. Since that time we have had no access whatever to a single document, not one.

Mr. PECORA. Well, haven't you——

Mr. MURFIN (continuing). In fact, the Comptroller of the Currency refused to let Mr. Leyburn even talk to me.

Mr. PECORA. Had you made prior to the time when you testified in that 1-man grand-jury proceeding a study of the bank's condition and situation of affairs upon which you based the opinion that you then testified to and which you have repeated here?

Mr. MURFIN. If you mean going through with an auditor or accountant, no. But I thought I knew the condition of the bank. I thought my service on the executive committee gave me a general idea as to its situation. I had these reports from time to time at committee meetings, from the various officers, which reports I believed. I had been shown in the early part of January, and I have forgotten whether it was by Mr. Sweeny or by Mr. Mills, a statement showing that the bank had earned over $6,000,000 the preceding year.

Mr. PECORA. That is, in the year 1932?

Mr. MURFIN. Yes, sir.

Mr. PECORA. Yes. Go ahead.

Mr. MURFIN. I knew of the very large charge-offs that had been made. I had been informed, but I was not present at the meeting, that the Comptroller asked for a charge-off of $6,000,000, I think in December, and that it was immediately made. I knew that very large charge-offs had been made. I knew that the past dues had ceased to accumulate. They accumulated, irrespective, for a while, but I knew they had ceased to accumulate. I thought we were getting it licked, I mean the past-due paper. I knew of the economies in operation that had been made; and I knew that——

Mr. PECORA (interposing). Well—but go ahead. I beg your pardon.

Mr. MURFIN (continuing). And I knew of the situation in that general way. That is what I predicated my opinion on.

Mr. PECORA. All economies in operation would be reflected in the earnings.

Mr. MURFIN. Yes, sir.

Mr. PECORA. You said you had been told in January of 1933 by Mr. Mills——

Mr. MURFIN (interposing). Or by Mr. Sweeny, and I am not sure which.

Mr. PECORA (continuing). Or by Mr. Sweeny, who were then, respectively, chairman of the board and president of the bank.

Mr. MURFIN. Right.

Mr. PECORA. Of the bank having had earnings in excess of $6,000,000 during the preceding year.

Mr. MURFIN. Right.

Mr. PECORA. Were you told what the charge-offs were that were made in that year?

Mr. MURFIN. I knew at the time; yes.

Mr. PECORA. What were they?

Mr. MURFIN. Oh! I don't remember now, Mr. Pecora. And I will say that I have the poorest memory for figures and details you can imagine. I just hate details.

Mr. PECORA. Well, you seem to recall at least the figures relating to earnings that were reported to you for the year.

Mr. MURFIN. That is true.

Mr. PECORA. Well, now, I wonder why you do not recall the amount of the charge-offs that were reported to you as having been made during the year.

Mr. MURFIN. The psychology of the question probably is that the earnings pleased me more than the charge-offs, and that is the reason why I remember them better. I do not know, but that is just a guess.

Mr. PECORA. What is your best guess about that?

Mr. MURFIN. The charge-offs were very, very large.

Mr. PECORA. What is your best guess as to the amount of them?

Mr. MURFIN. Oh! I don't remember. I think it was—Oh! It seems to me it was 20-odd million dollars, but that is a guess. You have asked me to guess and I have guessed.

Mr. PECORA. Was it your opinion that the bank was in better condition at the end of the year 1932 than it was at the end of the year 1931?

Mr. MURFIN. Correct. And that was the opinion of our executive officers. And that opinion was frequently expressed as they were winding up the business. You see, I had been out of touch with everything for many months, and I went down and spent one afternoon, and I asked a lot of questions, and that was the general opinion around the bank, that she was going along in better shape.

Senator COUZENS. That was in January of 1933?

Mr. MURFIN. Yes.

Mr. PECORA. Did you know, then, or do you know now, what was the aggregate capital, surplus, and undivided profits of the bank at

the time of the consolidation on December 31, 1931, and what those figures were at the end of the year 1932?

Mr. MURFIN. No. The capital was $25,000,000, and I know that the surplus and undivided profits had been cut into frightfully. Yes, they had been cut into frightfully.

Mr. PECORA. In the year 1932?

Mr. MURFIN. Yes, sir.

Mr. PECORA. And the surplus had been greatly reduced.

Mr. MURFIN. That is correct.

Mr. PECORA. Does that indicate a better condition?

Mr. MURFIN. Why, it indicates that you are cleaning house; yes.

Mr. PECORA. Does it indicate that the bank was in better position financially at the end of the year 1932 than it was the year before that?

Mr. MURFIN. I think so; yes, sir. Do you want me to tell you why?

Mr. PECORA. I haven't any objection to your telling us why.

Mr. MURFIN. Well, if you want my opinion, a lot of those bad loans that have been criticized were old weather-beaten loans——

Mr. PECORA (interposing). Now, which loans do you refer to?

Mr. MURFIN. Oh, the loans you have been criticizing here, a number of them.

Mr. PECORA. What loans have I been criticizing here?

Mr. MURFIN. Officers' loans, for example.

Mr. PECORA. What loans have I been criticizing?

Mr. MURFIN. Officers' loans, I have heard you criticize.

Mr. PECORA. I haven't criticized anything. I have merely put into the record criticisms which were criticisms that were made, for instance, by bank examiners.

Mr. MURFIN. Well, perhaps the form of your questions made me think you were critical of them.

Mr. PECORA. I am merely attempting to elicit the facts, Judge Murfin.

Mr. MURFIN. Well, I am trying to help you.

Mr. PECORA. All right.

Mr. MURFIN. But I wish you wouldn't ask me to guess so much.

Mr. PECORA. Well, unfortunately, I have to ask you to guess where you cannot give us anything better than a guess. I wish you to give us exact knowledge if you possess it.

Mr. MURFIN. Well, there are so many men better qualified to give you those facts than I am.

Mr. PECORA. Who, for instance, would you recommend as better qualified than you?

Mr. MURFIN. Mr. Mills, Mr. Bodde, Mr. Chittenden, Mr. Sweeny, Mr. McGonegal, Mr. Pipper. And Mr. Mark Wilson, sitting over there, knows more about it than almost anybody.

Mr. PECORA. Mr. Mark Wilson is going to testify. He has been subpenaed here for that purpose.

Mr. MURFIN. He will tell you the truth, and he is a marvelous man, being a master of details, while I hate details, and he was an expert on that matter and was charged with that duty. He can tell you as much about it as anybody I know.

Mr. PECORA. Would you depend on Mr. Wilson's testimony as to the facts?

Mr. MURFIN. I would believe anything that Mr. Wilson said; and I think anybody who knows him would do likewise. He stands very high.

Mr. PECORA. Mr. Mark Wilson is going to be put on the stand. And so will Mr. Mills, and so would Mr. Sweeny if he were able to be here. And if Mr. Bodde wants to come here the stand will be open to him.

Mr. MURFIN. I do not think, Mr. Pecora, that anybody wants to come here. [Laughter.] Have the newspaper boys told you the description of this hearing in Detroit?

Mr. PECORA. What is that?

Mr. MURFIN. In Detroit there is going about the expression, in connection with this committee's hearings, that all of the Detroit bankers have angina Pecora. [Laughter.] That indicates that they do not want to come here.

Mr. PECORA. Why, Judge Murfin, there are some people who have been collecting royalties on that wisecrack for about 8 months.

Mr. MURFIN. Well, it only reached Detroit when you got there.

Mr. PECORA. Did you ever, either as a member of the board of directors of the bank or in any other capacity, discuss with any of the other directors, or with any of the officers of the bank, reports of examinations of the bank made during the years 1931 and 1932 by national bank examiners?

Mr. MURFIN. I discussed with several directors, and with Mr. Sweeney and Mr. Mills, the report that Mr. Leyburn made in December of 1932 of the examination that he started in November of that same year.

Mr. PECORA. Do you recall that I read into the record, during the process of examining Mr. Stair on yesterday, many remarks, comments, and criticisms embodied in that particular report?

Mr. MURFIN. You told Mr. Stair you were reading from the yellow sheets. We never saw those. Those reports that came to Washington we haven't seen yet.

Mr. PECORA. I am referring to the report that was a part of the report mentioned.

Mr. MURFIN. Well, the situation is that there were two reports, one report that the bank got, and one report that we never saw, and haven't seen yet.

Mr. PECORA. You know that the examiners make reports to the Comptroller of the Currency after making examinations of banks, and that all these reports have included so-called "confidential criticisms" that are designed for the information and guidance of the Comptroller.

Mr. MURFIN. There was not a person connected with the First National Bank who ever heard of that practice until Senator Couzens testified on the subject before the Detroit grand jury, and then it came to Mr. Sweeny, Mr. Mills, and all of us as a distinct shock that the examiner should give the Comptroller one report and give the bank another report. I am shocked at that yet.

Mr. PECORA. Why, Judge Murfin, do not you know that the report given to the Comptroller of the Currency includes the report given to the directors of the bank, plus this so-called "confidential criticism or comment"?

Mr. MURFIN. All that I know about the report given to the Comptroller is what was brought out by Senator Couzens' testimony before the Keidan grand jury, and what you read to Mr. Stair here yesterday. Now, that is all that I know about it.

Mr. PECORA. Have you been under the impression all these years that the report made to the Comptroller of the Currency by national bank examiners consisted merely of what you have referred to as these yellow sheets?

Mr. MURFIN. I assumed that the report of the examination of the bank, which was given to the directors for their information and action, was the same as is given to the Comptroller.

Senator COUZENS. It is the same so far as figures are concerned, and so far as loans are concerned. The only difference is the comments which the examiners make to the Comptroller of the Currency, which the examiner does not put in writing to the directors, although the reports themselves frequently state that they have discussed these matters with the executive board or committee without putting them into the written report.

Mr. MURFIN. Well, that is all news to me. I never knew that before. Of course, what the Comptroller of the Currency has I know nothing about.

Senator COUZENS. The Comptroller of the Currency has only the same figures that you have, so far as figures are concerned. He has no different set of figures.

Mr. PECORA. In other words, Judge Murfin, every report of examination given to a bank by the bank examiner is also given to the Comptroller of the Currency, plus the so-called "confidential criticisms or comments."

Mr. MURFIN. The "plus" part is all news to me, Mr. Pecora. I never knew there was any plus about it. And I might say that I went to these expert bankers—and I am not a banker, you understand—I went to Sweeny, I went to Bodde, I went to Livingstone, and asked nearly all of them about it, and they had never heard of such a thing.

Mr. PECORA. I do not quite understand their ignorance as to the practice. It has been well known for years in New York anyway. I do not know about Detroit.

Mr. MURFIN. I am just telling you what little I know.

Mr. PECORA. Let me read to you, Judge, the following from the general remarks——

Mr. MURFIN. Is this from the report to the directors or the report to the Comptroller?

Mr. PECORA. The report to the Comptroller of the Currency by the national-bank examiner of his examination of your bank, made as of the 18th day of November 1932, which, as I understand, it was the last examination made prior to the closing of the bank in February 1933.

Mr. MURFIN. That is my understanding.

Mr. PECORA. The remarks in this report are as follows [reading]:

To comment on the assets of this bank, one must dwell almost wholly in the past, as practically no recent loans are being made which are subject to criticism. The present picture portrays an effort to collect loans representing speculation in the nth degree at a time of evanescent security and no market——

Mr. MURFIN. Of what?

Senator COUZENS. Evanescent security.

Mr. PECORA. Evanescent security.

Mr. MURFIN. What kind of security is that? What kind of security do you mean by that? I know what "evanescent" means. I never heard of an evanescent security.

Mr. PECORA. A security which, I suppose, vanishes gradually until it almost disappears.

Mr. MURFIN. I am familiar with that.

Mr. PECORA. The ordinary meaning of the term "evanescent", I take it, applied to security here means what I indicated.

Mr. MURFIN. I get you.

Mr. PECORA. I do not pose as a lexicographer. [Continuing reading:]

What the ultimate outcome would be I do not think is ascertainable at this time, but under present conditions I most seriously question the bank's solvency. I feel that the management is doing almost everything possible to improve their condition, except as noted on page 11, and that commendable progress has been made along the lines of reduction in operating expenses; but I question that, if the truth were actually known, whether or not they are breaking even, and feel that their earnings are more mythical than actual. I do not see how they will be able to absorb their losses from earnings. Neither do I believe it would do any material good to use the surplus of a bank of this size under present conditions, and it might do considerable and far-reaching harm. Until such time as the Detroit Bankers Co. gets its outside bank loans paid, it would appear advisable to allow subject bank to pay dividends, as they are so closely interwoven that suit against the company would react too strongly on the bank. But under no circumstances do I feel that dividends should be disbursed outside.

The governing board in part appeared to question this attitude, and for sentimental reasons appeared to want to continue to pay dividends on the Detroit Bankers Co. stock. They have not been assured that your office will even countenance the payment of dividends as above; and if not out of order, examiner suggests that they be advised in your letter to the bank that any dividends paid by the bank must be used to retire the debts of the company only, and no distributive dividends are to be made without first obtaining the comptroller's approval.

As set out in the previous report, they have still too many involved offices, and officers who have been trained as fair-weather bankers, and unable to anticipate trouble in a loan. They have need for some conservative, hard-hearted bankers, not only in the capacity of loan officers, but executive officers.

The chairman of the board, Mr. Mills, is not unmindful of the bank's condition, and is very frank in committing himself to an examiner. However, one or more persons cannot do the impossible, and although he has had only 2 years' experience as an actual banker, I think he is doing as good a job as could be expected with what he has to work with.

In contrast with last examination, examiner placed no collateral value on Detroit Bankers stock, and such loans will be found listed in the doubtful column, which previously were set up slow. A review of the general remarks in last examiner's report will bring out in detail some of the things mentioned in a cursory manner in this report, and I believe will help to give anyone reading this report a little clearer picture of this enigma. Loans on which the comment "probable loss" or "probable loss in part" appears where originally set up as such, and the governing board advised of examiner's opinion, but, as previously set out, the size of this bank appeared to all concerned too large to risk the destruction of public confidence, and the classifications were moderated.

Mr. MURFIN. That is a very long question you are asking.

Mr. PECORA. I have not asked you the question yet. I am reading that to you. Now, I have finished the reading of that particular portion or extract from this report. Have you any knowledge of

facts that would prompt you to say that the comments or observations or statements which I have just read to you from this examiner's report of the bank as of November 1932 were exaggerated or unwarranted or were not based on fact?

Mr. MURFIN. Will you explain to me how an examiner can say the bank is probably insolvent and then instruct them to go ahead and pay a dividend to the Detroit Bankers Co., the stockholder that owns the company? That is the biggest piece of nonsense I ever heard coming from an official document. In one sentence he says the bank is insolvent. In the next sentence he says, "Let them pay a dividend to the Detroit Bankers."

Mr. PECORA. He did not say the bank was insolvent.

Mr. MURFIN. He pretty nearly said it in that first statement.

Mr. PECORA. He said [reading]:

> What the ultimate outcome will be I do not think is ascertainable at this time.

Mr. MURFIN. Earlier than that.

Mr. PECORA (continuing reading):

> But under present conditions I most seriously question the bank's solvency.

Mr. MURFIN. Yes.

Mr. PECORA. In other words, he was himself uncertain about it at that time. He does not say definitely or unqualifiedly that it is solvent or that it is insolvent, as I construe this language. Do you place any other meaning upon it?

Mr. MURFIN. If I had such serious doubt about the bank's solvency, I would not seriously discuss paying a dividend, would you?

Mr. PECORA. Just consider all that he said on the subject of dividends. Let us go back to it. Here is what he said [reading]:

> I do not see how they will be able to absorb their losses from earnings. Neither do I believe it would do any material good to use the surplus of a bank of this size under present conditions, and it might do considerable and far-reaching harm. Until such time as the Detroit Bankers Co. gets its outside bank loans paid, it would appear advisable to allow subject bank to pay dividends, as they are so closely interwoven that suit against the company would react too strongly on the bank. But under no circumstances do I feel dividends should be disbursed outside.

Mr. MURFIN. I think that was sound advice.

Mr. PECORA. What?

Mr. MURFIN. I think that was sound advice.

Mr. PECORA. That is the recommendation or the comment of the examiner.

Mr. MURFIN. I think that was sound.

Mr. PECORA. You agree with the soundness of it up to that point?

Mr. MURFIN. I think at that time that was very sound advice.

Mr. PECORA. Let us see what further he says from that point on [continuing reading]:

> The governing board in part appeared to question this attitude, and for sentimental reasons appeared to want to continue to pay dividends on the Detroit Bankers Co. stock.

So, according to the report made by the examiner, certain of the members of the governing board do not share the feeling that you have just expressed—that this was sound advice on the part of the examiner.

Mr. MURFIN. Mr. Pecora, out of the 90 directors in that bank——

Mr. PECORA. No; the governing board. I am confining this to the governing board.

Mr. MURFIN. I think there were 20 different ideas on every subject brought up. Men's opinions vary.

Mr. PECORA. I am merely calling attention, Judge, to the fact that members of the governing board, apparently, some of them, at least, did not share the feeling that you have just given expression to, that this was sound advice on the part of the examiner.

He goes on further, from the point at which I left off [continuing reading]:

> They have not been assured that your office will even countenance the payment of dividends as above, and if not out of order, examiner suggests that they be advised in your letter to the bank that any dividends paid by the bank must be used to retire the debts of the company only, and no distributive dividends are to be made without first obtaining the Comptroller's approval.

Mr. MURFIN. It seems to me that is good advice.

Mr. PECORA. And the substance of that advice is that because of the interwoven character of the Detroit Bankers Co., which had outside debts at the time in other banks, it might be all right for the bank to pay a dividend to the Detroit Bankers Co., but that that dividend, when received by the Detroit Bankers Co., should not be distributed to its stockholders, but should be used to retire its own indebtedness.

Mr. MURFIN. I think that is sound advice. I understand it that way, just as you do.

Senator COUZENS. Therefore, do you think it is at all inconsistent for the examiner to doubt the solvency, and still make that recommendation?

Mr. MURFIN. Yes, Senator; because if he doubts the solvency of what he calls the member bank—if he doubts the solvency of the First National Bank, he ought not to allow it to pay a dividend, even if the dividend does go to retire the debts of the Detroit Bankers. He should not allow money to go out of that bank by way of a dividend if the solvency of the bank is questioned.

Senator COUZENS. I understand the position you take all right, but, as Mr. Pecora has pointed out, the close relationship of the two suggested to the examiner that if you discontinued dividends on the Detroit Bankers Co. stock it might react against the bank.

Mr. MURFIN. I appreciate that.

Senator COUZENS. Therefore, is it inconceivable that an examiner might suggest that to avoid a reaction against the bank?

Mr. MURFIN. It is inconceivable to me that a bank examiner should permit a dividend to be paid from a bank whose solvency he questions, no matter what happens.

Senator COUZENS. Even though the reaction closed the First National?

Mr. MURFIN. That is not the way the First National was closed.

Senator COUZENS. I am not talking about the way the First National was closed. I am talking about what happened when he wrote that report.

Mr. MURFIN. I think that is just a difference of opinion. I would not have done it that way. I doubt if you would have done it that way if you had been an examiner.

Senator COUZENS. I am asking if it is wholly unreasonable to issue a warning to his chief. He was not acting for himself.

Mr. MURFIN. I appreciate that.

Senator COUZENS. He was issuing a warning or suggestion to his chief that it might be desirable to permit the bank to pay the dividend to its owners so as to prevent a general public reaction against the bank.

Mr. MURFIN. I thoroughly appreciate that. It is just a mere question of opinion. One man's opinion is that this is the best way to handle it. Another man's opinion might be something else.

Senator COUZENS. I only raised the question because you seemed to take the dogmatic position that the examiner was wholly inconsistent in his questioning the solvency of the bank and at the same time permitting a dividend to its owner.

Mr. MURFIN. I think it is most inconsistent. I am not dogmatic. I think it is most inconsistent.

Senator COUZENS. Even in spite of the fact of the close relationship between the two?

Mr. MURFIN. Exactly.

Mr. PECORA. In other words, in spite of the fact that the dividend so paid by the bank would have gone to the bank's parent and owner, namely, the Detroit Bankers Co.?

Mr. MURFIN. Yes.

Mr. PECORA. Would it not react favorably to the bank if the Detroit Bankers Co., which owned its capital stock, had been able to retire its outstanding indebtedness?

Mr. MURFIN. Oh, certainly. There is no doubt about that.

Mr. PECORA. Is not that the thing that the examiner, in this report, is virtually suggesting?

Mr. MURFIN. I think that is so. I think that is just what he is suggesting, Mr. Pecora.

Mr. PECORA. Do you not think it is apparent, through all this comment by the examiner that I have read to you, that there was in the examiner's mind a strong desire to be as helpful as possible to the bank's situation at that time?

Mr. MURFIN. I think that is a fair statement.

Mr. PECORA. Now, I will ask you the question I asked before. Have you any knowledge of any facts which would cause you to feel that the comment or criticism—whichever you might choose to call it—which the examiner made to the Comptroller in this report from which I have read to you, was unwarranted, or was exaggerated, or was not based upon fact?

Mr. MURFIN. In my opinion his even questioning the solvency of the bank was a serious error. I think the bank was thoroughly solvent.

Mr. PECORA. What facts can you present here to substantiate that? You are giving us an opinion. I want facts.

Mr. MURFIN. I can only give you my opinion. My opinion is predicated upon what I thought I knew, and what I still think I knew about that condition.

Mr. PECORA. Can you present any facts here to us to support that opinion?

Mr. MURFIN. All the supporting data in the world are in the hands of the Federal Government, and none of us has been able to have access to any of it.

Mr. PECORA. Have you knowledge, as you sit there now—have you knowledge or recollection of any knowledge of facts that supports the opinion that you have so vigorously expressed?

Mr. MURFIN. That would involve my analyzing all the mortgages. It would involve my analyzing all the loans. It would involve my analyzing the past-due paper. It would involve my guessing as to whether Mr. Pecora could pay up his or Mr. Murfin could pay up his.

Mr. PECORA. I do not owe the bank anything.

Mr. MURFIN. Neither do I. I am just using this as an illustration. It is impossible to analyze, Mr. Pecora.

Mr. PECORA. Why impossible, Judge?

Mr. MURFIN. It is impossible for me, anyway.

Mr. PECORA. This bank, after the consolidation of December 31, 1931, was known as the "First Wayne National Bank" for a while, was it not?

Mr. MURFIN. That is right.

Mr. PECORA. I have here what purports to be a comparative statement of income and expenses of the First Wayne National Bank. This is produced from the files and records of the bank itself, Judge, and I am going to show it to you and ask you to look at it and tell me if you know anything at all about the conditions, facts, and so forth, set forth in that comparative statement.

Mr. MURFIN (after examining paper). I have never seen this. At least I do not think I ever have. I have never seen this, or anything like it. I do not know anything about this, Mr. Pecora.

Mr. PECORA. Do you see what that indicates?

Mr. MURFIN. Oh, yes.

Mr. PECORA. What?

Mr. MURFIN. It indicates the bank is losing money.

Mr. PECORA. The bank lost approximately $5,700,000 in the year 1932.

Mr. MURFIN. The figures are right there; yes. I have never seen that, or anything like it. I know nothing about it.

Senator COUZENS. What date did you change it from the First Wayne National Bank to the First National Bank?

Mr. MURFIN. Senator, I cannot answer that question. I know this. There was a good deal of argument as to what the name of the merged bank should be, and some wanted to keep the name "Peoples" in it, and some wanted to keep the name "Wayne" because of the old Wayne County, and when they hit upon "First Wayne" nobody liked it, and they finally changed it to the First National Bank, Detroit.

Mr. PECORA. As a stockholder of the Detroit Bankers Co., Judge, did you attempt to keep yourself posted as to the financial condition of that company during its history?

Mr. MURFIN. Not of the Detroit Bankers, sir. I probably was remiss in that. I did try to keep in very close touch with the First National, but I knew none of the details of the Detroit Bankers.

Mr. PECORA. So, you feel it would be futile to ask you any ques-

tions about your knowledge of the condition of the Detroit Bankers Co.?

Mr. MURFIN. That is true.

Mr. PECORA. Because you did not keep yourself posted as to that?

Mr. MURFIN. I know nothing about it at all. I explained yesterday the brief period I happened to be a director of the group—one meeting to organize and one meeting to dissolve. I knew nothing about it.

Mr. PECORA. You got copies of the annual reports that were sent to the stockholders of the Detroit Bankers Co.?

Mr. MURFIN. I did.

Mr. PECORA. What impression did you get from the reading of those reports, assuming that you read them, as to the progress of the Detroit Bankers Co. and as to its financial condition from time to time?

Mr. MURFIN. I think, or I thought, in view of all the circumstances, that we were doing pretty well. That is the impression I had.

Mr. PECORA. Did you get the impression from the annual reports of the Detroit Bankers Co. that you read, that the company was improving its position, too?

Mr. MURFIN. No; my impression was that we were about holding our own the last year. That was the reaction I had.

Mr. PECORA. By holding your own, do you mean breaking even?

Mr. MURFIN. I mean we were not going back. We had been going back. I had the impression the backward progress had stopped. That is just an impression.

Mr. PECORA. According to evidence introduced here, during the year 1932—and these figures are shown in the annual report filed with the Michigan Securities Commission by the Detroit Bankers Co. for that year——

Mr. MURFIN. I never saw that report.

Mr. PECORA. Did you ever hear of the facts and statements embodied in this annual report to the Michigan Securities Commission?

Mr. MURFIN. I never saw the reports filed with the securities commission. I know nothing about what is in them.

Mr. PECORA. It showed that that company, during the year 1932, instead of holding its own, was around $9,000,000 worse off at the end of the year than it was at the beginning.

Mr. MURFIN. I heard you say that yesterday.

Mr. PECORA. You heard that for the first time yesterday?

Mr. MURFIN. Yes. I think that is the first time I heard it. I think that is true.

Mr. PECORA. Assuming those facts to be true, do they surprise you now?

Mr. MURFIN. Yes; I am surprised.

Mr. PECORA. Would knowledge of those facts coming to you now cause you in any way to revise any opinion you heretofore have had concerning the condition of the Detroit Bankers Co.?

Mr. MURFIN. I have not expressed an opinion concerning the condition of the Detroit Bankers' Co. I expressed an opinion concerning the condition of the First National Bank.

Mr. PECORA. You have just said that you thought, from reading the annual reports of the Detroit Bankers Co., that it was holding its own during the year 1932.

Mr. MURFIN. That is true. I did.

Mr. PECORA. Do you believe that still?

Mr. MURFIN. I would have to sit down and check all these reports from year to year to do that. I cannot do that now.

Mr. PECORA. You would not think it was holding its own if it lost over $9,000,000 during that year, would you?

Mr. MURFIN. If it lost $9,000,000, one year, and had lost $15,000,000 the year before, I would say it was improving. I do not know any more about it.

Mr. PECORA. That is a rather negative form of improvement, Judge.

Mr. MURFIN. Yes; that is true.

Mr. PECORA. The disease continues, but the amount of wastage caused by the disease is just slightly lessened?

Mr. MURFIN. That is all true. This may be a digression, but I read the other day a report from one of the steel companies, I think. They thought they were improving, because the loss for the last quarter of last year was a great deal less than the loss for the last quarter of the year before. I think that is an improvement, if you do not lose as much money, don't you?

Mr. PECORA. I do not know what you mean by "improvement."

Do you recall testifying, Judge, in the one-man grand jury proceeding last summer, with respect to a plan which, apparently, at that time was being considered for the reopening of the bank?

Mr. MURFIN. If my memory is correct—now, remember, this was a good while ago, and I have not seen the testimony.

Mr. PECORA. I think it was last July, was it not?

Mr. MURFIN. Yes. I think I asked the court not to ask me questions on that subject, for fear that the progress of the plan might be jeopardized. Does not the record show that?

Mr. PECORA. Yes.

Mr. MURFIN. That is my memory about it.

Mr. PECORA. You did not describe the plan in your testimony there, for the reason that you have just assigned.

Mr. MURFIN. That is correct. That is my memory.

Mr. PECORA. Is that plan still under consideration?

Mr. MURFIN. Oh, no. That was abandoned—oh, quite a long time ago. I cannot give you the date, but up until fall we thought we had a chance, but after September and October the group with whom I was working abandoned all thoughts of any reorganization.

Mr. PECORA. Would it serve any useful purpose, do you think, Judge, if you were to disclose now what that plan was?

Mr. MURFIN. I shall be very glad to give you the general features of it if you want.

Mr. PECORA. Go ahead.

Mr. MURFIN. We wanted to compromise the stockholders' suit by arranging for the stockholders to pay 75 percent or 50 percent. These figures are nebulous. I am just giving you the general outline of the plan—as a result of which enough money would be raised—and give them class B stock, so that they would have something for their money—and then induce some additional capital to come in, and get some money from the R.F.C., the figures of which I do not carry in my mind, so as to pay 100 cents on the dollar to

all the depositors under $500. Surprisingly enough, there are over 600,000 depositors in that bank whose deposits are under $500, and it would have taken at that time, in view of the dividends that had then been paid—I have forgotten what it was—it would have taken, I think, 17 million or 19 million dollars to have paid them out. The plan was, in general, to pay out 100 cents on the dollar for deposits of $500 and less to 600,000 depositors.

Mr. PECORA. That is, to the depositors whose deposit accounts were $500 or less?

Mr. MURFIN. Yes.

Mr. PECORA. That would take about 19 million dollars?

Mr. MURFIN. About $19,000,000. Then we would ask the larger depositors—and a great many of them were cooperative in this particular—to subscribe a certain percent of their deposits, and then freeze the balance of their deposits until we could work this out. That would involve help from the R.F.C.

Mr. PECORA. To what extent?

Mr. MURFIN. I cannot give you the figures, Mr. Pecora.

Mr. PECORA. Can you tell us approximately?

Mr. MURFIN. No.

Senator COUZENS. Was it not the same amount, about $19,000,000?

Mr. MURFIN. I will tell you what I can do. I think I have this thing all in typewritten form. I will mail it down to you if you want me to, when I get home.

Mr. PECORA. I recall that in the testimony you gave in that one-man grand-jury proceeding you referred to the plan as one that covered 25 typewritten pages.

Mr. MURFIN. Senator Couzens, did not Colonel Alger and Mr. Clark give you a copy of that?

Senator COUZENS. I do not remember whether they did or not. I think they discussed it with me one day at luncheon; but I do not recall that I ever had the figures.

Mr. MURFIN. I may be entirely out of order, but I am quite certain of this from my memory, that either Fred or Emory Clark wanted to discuss it with you, and you asked him to have the plan, to study it before it came out, and they gave you the plan, and then they came out, and you did not think much of the plan.

Senator COUZENS. Was that the plan that was drafted by Mr. McDonald?

Mr. MURFIN. Yes; Mr. McDonald and Henry Shelden. The two of them worked together. Yes; that is the plan.

Senator COUZENS. That did not incorporate that plan that you have just described, because the plan you have just described must have been in your mind some considerable time earlier than they talked to me about it.

Mr. MURFIN. It is true, Senator, that as we would meet obstacles we would revise the plan. We would have one plan, and find it would not work, and try another plan, but the basic features of all the plans that Emory Clark, Colonel Alger, and a few others of us were working on, were to eliminate the stockholders' suit by giving the stockholders class B stock giving them something for their money, and take care of the smaller depositors immediately. Those were the basic things about which we were revolving.

Mr. PECORA. Was it the objective of this plan to pay immediately those depositors who had balances of $500 or less?

Mr. MURFIN. Yes, sir; that was the primary object.

Mr. PECORA. That was what the plan involved?

Mr. MURFIN. Yes, sir.

Senator COUZENS. That was not included in the plan—at least the typewritten memorandum that Mr. McDonald gave me.

Mr. MURFIN. I have a typewritten set-up of one of these plans, and I will be very happy, when I get home, to mail it to you, Mr. Pecora, if you want it.

Mr. PECORA. I will be very glad to get it. It was not the plan to pay off all the depositors in full, but those whose balances were $500 or less?

Mr. MURFIN. The larger depositors were to use some of their money to take stock, and the rest would be paid off through the R.F.C. as fast as possible, and some would be frozen.

Mr. PECORA. Here is the way you testified about that plan——

Mr. MURFIN. That was a mistake. I did not say all depositors. That was a mistake in the transcript, and that was immediately corrected in Detroit. I know just what you are getting at.

Mr. PECORA. What currency was given in newspaper publications to the correction?

Mr. MURFIN. I think there was plenty of currency given to it.

Mr. PECORA. Here is the plan as you testified to it, or, rather, here is the testimony you gave——

Mr. MURFIN. They quoted me as saying they would pay all depositors in full.

Mr. PECORA. I will read you the words as they appear in this transcript of the testimony. I am reading from page 1063 of the transcript of testimony in that 1-man grand jury proceeding last summer. This is your answer [reading]:

> Q. Now, Judge Murfin, are you interested at the present time in a plan to reopen the First National Bank?—A. Yes; I am. Will you allow me to make a statement, Mr. Toy?
>
> Q. Yes.—A. A small group of people, largely headed up by Mr. Emery W. Clark and Colonel Alger, with accountants and legal assistance, have been working on a plan for nearly 6 weeks. I think it is a very wonderful plan. I think a premature publication or a premature expose of its details might be fatal. One day we are much encouraged. The next day we are discouraged. The day before yesterday I was quite encouraged that we are making substantial progress. One feature of that plan, which is the prize feature of it, is this: That if it goes through every depositor will immediately get 100 cents on the dollar and the bank or banks will be opened by Detroiters and not by outsiders.

Mr. MURFIN. The Detroiter feature was not featured.

Mr. PECORA. What is that?

Mr. MURFIN. The fact that the bank would be run by Detroiters was not featured.

Mr. PECORA. The prize feature here, according to the testimony as it appears in the transcript, is, as you state [reading]:

> One feature of that plan, which is the prize feature of it, is this, that if it goes through every depositor will immediately get 100 cents on the dollar, and the bank or the banks will be opened by Detroiters and not by outsiders.

Mr. MURFIN. I have corrected that.

Mr. PECORA. What correction did you make?

Mr. MURFIN. That the depositors under $500 were the ones that were to get their money. The plan involved the larger depositors putting up some of their money for stock.

Mr. PECORA. In what form, and through what medium, was that correction made in your testimony?

Mr. MURFIN. To the reporters, when I saw it in the paper next day.

Mr. PECORA. To the reporters?

Mr. MURFIN. When I saw it in the paper the next day.

Mr. PECORA. It was not corrected on the record in the proceedings?

Mr. MURFIN. When I got through with that hearing I did not go back.

Mr. PECORA. I think you did go back, in September.

Mr. MURFIN. I was there twice, I think.

Mr. PECORA. You went back in September.

Mr. MURFIN. I have forgotten the date. I was there twice.

Senator COUZENS. What date was that you just read from?

Mr. PECORA. This was testimony given on June 30, 1933, according to the transcript of the minutes which I have before me.

Senator COUZENS. Of course, I was not in this country at that time.

Mr. MURFIN. That is correct.

Senator COUZENS. So I could not have seen that particular draft you referred to.

Mr. MURFIN. You are entirely right about that.

Senator COUZENS. Because I did not come back until August.

Mr. MURFIN. You are entirely right about that.

Senator COUZENS. Am I diverting you, Mr. Pecora?

Mr. PECORA. No; go ahead. I am looking up another bit of testimony.

Senator COUZENS. Yesterday, as I understand, you testified, as I recall it, that 92 percent of the depositors were stockholders, or something to that effect.

Mr. MURFIN. The transcript says 92. I said ninety-odd percent, and I corrected it with Mr. Pecora. I meant ninety-odd percent of the stockholders and companies with which they are affiliated, represent the deposits in that bank. That is an estimate.

Mr. PECORA. Did you make that estimate on figures which you examined?

Mr. MURFIN. The first figures submitted to me, if you are interested in this——

Senator COUZENS. I am interested in your correction, because I heard you make a correction off the record yesterday, and I would like the correction made on the record.

Mr. MURFIN. Thank you. It should have been made on the record. I appreciate that very much.

The first figures were submitted by Mr. Taylor. He was commenting on the effect of the stockholders' suit upon the people of Detroit, and especially that it was doing some damage or harm to the depositors, and he got out these figures of how much of the total bank deposits, were represented by stockholders and corporations with which they were affiliated. Then he went over those figures

with Mr. Sweeny. Then I went over those figures with Mr. Taylor and Colonel Alger. They are just estimates, the best estimates that could be made, but a very large amount of the deposits in that bank are represented by stockholders' money, or the money of concerns with which stockholders are connected. The point is that the thought that the assessment suit was going to damage the depositors is not an accurate way of putting it. It was going to help the depositors.

Senator COUZENS. Do you mean in percentages of the amount of deposits?

Mr. MURFIN. Yes.

Senator COUZENS. But by no means the percentage of depositors?

Mr. MURFIN. Oh, no. The best estimate we could get was that if the Government succeeded in this suit on the twenty-five million assessment they might collect $4,000,000. That would be 1 percent additional to those depositors, and it would ruin a great many more Detroit families if they had to pay it. The average deposit under $500 is $65, and those little depositors, for whom so much sympathy is being given, would average 65 cents more, at the expense of the complete ruination of a great many Detroit people.

Senator COUZENS. I want to make it clear, so long as you referred to my consideration of some of these plans, that in my discussion with Mr. Shelden and Mr. Clark, and I think Mr. McDonald, some time in the late summer or early fall the discussion was to the effect that I had no objections to that, but I had to be controlled by the decisions of the Comptroller of the Currency. I made that very plain.

Mr. MURFIN. There was some time, Senator—I do not know the date—when the Comptroller told Mr. Shelden—and I think Mr. McDonald was with him—that the time had passed to consider anything further. That is when it stopped.

The CHAIRMAN. The number of depositors to the amount of $500 or less would be comparatively a small number, would it not?

Mr. MURFIN. Over 600,000 depositors.

The CHAIRMAN. Below $500?

Mr. MURFIN. Yes.

The CHAIRMAN. Six hundred thousand?

Mr. MURFIN. Yes.

The CHAIRMAN. How do you figure that 90 percent of those were stockholders in the Detroit Co.?

Mr. MURFIN. I am talking about 90 percent in volume, not in number.

The CHAIRMAN. Ninety percent of the deposits, but not in number?

Mr. MURFIN. Ninety percent in dollars, but not in number.

The CHAIRMAN. I was speaking about the number. You mean 90 percent of the deposits in the bank were by people whose accounts were $500 or less?

Mr. MURFIN. No, sir. The total depositary liability in the bank was approximately $400,000,000.

The CHAIRMAN. Yes.

Mr. MURFIN. Now, it is estimated that $360,000,000 of that is the money of stockholders or concerns with which they are affiliated.

Mr. PECORA. What proportion of percentage of the depositors of the bank were stockholders of the Detroit Bankers Co.?

Mr. MURFIN. There were about 9,000 stockholders in the Detroit Bankers Co. Again I am guessing, Mr. Pecora. The majority of them were depositors in the bank.

Mr. PECORA. That is, of the 9,000 stockholders?

Mr. MURFIN. Yes.

Mr. PECORA. How many of the more than 600,000 depositors of the bank do you think were stockholders of the company?

Mr. MURFIN. How many of what?

Mr. PECORA. How many of the more than 600,000 depositors which the bank had do you think were stockholders of the company?

Mr. MURFIN. I have not the remotest idea. There were only 9,000 stockholders.

Mr. PECORA. Yes.

Mr. MURFIN. And there were nearly 800,000 depositors. I am talking in volume, you understand, not in numbers.

Mr. PECORA. I got the impression that perhaps you were talking about percentage of depositors.

Mr. MURFIN. No; percentage of deposits.

Mr. PECORA. Who are also stockholders of the Detroit Bankers Co.?

Mr. MURFIN. I am talking about the percentage of deposits, not depositors.

Mr. PECORA. You do not suppose, do you, that there were very many, if any, stockholders among the 600,000 or more depositors whose balances in the bank were $500 or less?

Mr. MURFIN. I think there were quite a few. I would not say how many. There are some.

Senator COUZENS. There could not have been very many.

Mr. MURFIN. That is true. Those are largely in the savings, you understand, Senator.

Mr. PECORA. After you finished that answer which I have read to you, which you gave in the one-man grand jury proceeding, Judge Keidan asked you this question [reading]:

Q. Would you reopen the First National Bank?

Your answer was [reading]:

A. Well, I would rather not say, if you will pardon me, Judge Keidan. If I give the details, I may get into trouble. I would be glad to tell you and Mr. Toy in private all about it.

The COURT. No.

A. Because any plan that has so many ramifications and so many details—it is a mass of detail. I think it is fair to say that an overwhelming majority of the directors of these two institutions are not in touch with the details of this plan. Now, that is through no desire to be unkind or unfair, but the more people you get in a room to discuss a plan that is 25 pages long the more fly-specs there is, and it is our thought that the Government will finally put the stamp of their approval on this. Then we have got something, and that is the reason we have been trying to work as sort of a closed corporation.

Then the court asked you [reading]:

Q. And the depositors would get 100 cents on the dollar?
A. They would.

By Mr. TOY:

Q. How soon?
A. At once.

Mr. MURFIN. I do not understand that.

Mr. PECORA. What is that?

Mr. MURFIN. I do not understand how they did that. That was corrected the next day to the reporters. I never saw a plan that would involve 100 cents on the dollar the next morning.

Mr. PECORA. Judge, why didn't you correct that testimony on the record?

Mr. MURFIN. It never occurred to me, just as it did not occur to me until this morning to correct my testimony here, until Senator Couzens kindly reminded me of it.

I might say, by way of interpolation—I am very happy to say I found myself in accord yesterday with Senator Couzens on another question, when he talked about the merger of these banks. If they had not all merged, they might have been better off. The bank got too big.

Senator COUZENS. That is one of the faults of our whole industrial system. Every unit is getting too big.

Mr. MURFIN. Right on that subject, you mentioned the old Wayne County Home Bank. That is where I used to be a director, before all these mergers. Every man in that bank knew every customer. He knew every loan, and knew all about it. When you get as big as the First National, after all these mergers, it is impossible for any one man to be in touch and know the credit and know the ratings. I think the Senator's comment on that yesterday was very sound.

Senator COUZENS. Do you think it was sound to appoint 12 trustees to run that great combination of banks for a 5-year period?

Mr. MURFIN. That was done deliberately.

Senator COUZENS. Yes; I understand. I suppose it was. I do not suppose you were insane, so I suppose you must have done it deliberately, but do you think it was a wise policy to put $815,000,000 in the possession of 12 men for a 5-year period?

Mr. MURFIN. We thought so at the time. The argument used for that, Senator, was that it would make for continuity of operation, and that there would not be any substantial changes.

Senator COUZENS. The continuity of operation all depended upon the form of operation. You might have a continuity of bad operation as well as a continuity of good operation, if you got it through that process.

Mr. MURFIN. That is right. Continuity of management was the object.

Mr. PECORA. In order that there may be no wrong impression or opinion flowing from the statement you made yesterday to the effect that 92 percent of the depositors——

Mr. MURFIN. Ninety-odd percent.

Mr. PECORA (continuing). That ninety-odd percent would be more benefited if there were no assessment, the fact now is, as I understand the testimony you have given this morning, that there are about eight or nine thousand stockholders of the Detroit Bankers Co. Is that right?

Mr. MURFIN. That is right.

Mr. PECORA. And there were over 800,000 depositors of the bank?

Mr. MURFIN. That is right.

Mr. PECORA. And that something like 600,000 of those depositors had balances of $500 or less in the bank.

Mr. MURFIN. That is correct.

Mr. PECORA. Then, is it not a fact that, assuming the total number of depositors to be 800,000 and the total number of stockholders of the company to be 9,000, that approximately 791,000 depositors would be benefited by the assessment?

Mr. MURFIN. In numbers; yes. But what good does it do, Mr. Pecora, to give 600,000 people 65 cents at the expense of ruining 9,000 other people?

The CHAIRMAN. Have you any right to assume that they would be ruined by that?

Mr. MURFIN. The theory of double liability of stockholders, when the proportion between the depositary liability and the capitalization of the bank is so far off, I think, is more or less observed. The depositary liability of that bank at one time was $450,000,000. The capital stock was $25,000,000. A double liability on that, in case of insolvency, is just a white chip.

Mr. PECORA. You are not overlooking the fact that the stockholders of the company were the ones who profited from the declaration and payment of dividends by the bank?

Mr. MURFIN. Correct.

Mr. PECORA. So that when there were benefits to be conferred by being stockholders, they got the benefits.

Mr. MURFIN. That is true.

Mr. PECORA. But when there are burdens to be imposed by being stockholders, you do not think the burdens ought to be imposed upon them.

Mr. MURFIN. I do not think the burden should be imposed upon them for a condition for which they were in no way whatever responsible.

Mr. PECORA. That is true of every stockholder of a bank.

Mr. MURFIN. That is my notion of it, anyway.

Mr. PECORA. But that is not the law.

Mr. MURFIN. We will see, after February 15, whether or not that is the law. This case of ours is a very novel case. It is a case of first impression. We are going to make some new law.

Mr. PECORA. You are apparently confident of the outcome.

Mr. MURFIN. I am a chronic optimist, anyway, Mr. Pecora.

If you are interested in the precise number of depositors, Mr. Pecora, I have a record of it here.

Mr. PECORA. I think we have a fair approximation, have we not?

Mr. MURFIN. Yes; you have a fair approximation.

Mr. PECORA. I have before me copies of the annual reports to the stockholders of the Detroit Bankers Co. for the years 1930, 1931, and 1932, respectively, and I assume that as a stockholder of the company you too received copies of these reports when they were sent out to the stockholders.

Mr. MURFIN. Correct.

Mr. PECORA. Did you ever make that study and comparison of these reports which indicated to you that at the end of the first year——

Mr. MURFIN. I never compared them at all, Mr. Pecora. After I had read and examined a report I threw it in the wastebasket. I did not even keep it.

Mr. PECORA. At the end of the first year the surplus and undivided profits of the company——

Mr. MURFIN. This is the Detroit Bankers Co.?

Mr. PECORA. The Detroit Bankers Co. At the end of the first year the surplus and undivided profits aggregated $64,868,000; that at the end of the second year, namely, at the end of 1931, the surplus and undivided profits had shrunk to $39,049,000; and at the end of 1932 the surplus and undivided profits had been further reduced to $32,469,000?

Mr. MURFIN. I never made any such comparison. I accept your figures, of course. I never made that comparison.

Mr. PECORA. Not having made that comparison, I assume you had no knowledge of the facts which such comparison would have covered.

Mr. MURFIN. That precise knowledge I did not have; no.

Mr. PECORA. Are you learning those things for the first time now?

Mr. MURFIN. No; I have been learning a good deal since last February, Mr. Pecora.

Mr. PECORA. But I mean, are you learning these particular items for the first time?

Mr. MURFIN. I have never before heard those figures read that you just read.

Mr. PECORA. Did you ever attend a meeting of the board of directors of the bank, Judge Murfin, at which a national-bank examiner was present and discussed with the board the matters developed by his examination of the bank?

Mr. MURFIN. I was present at one meeting when he was there, and I heard of another meeting when he was there.

Mr. PECORA. Do you recall when those meetings were held—about when—and what reports were discussed then?

Mr. MURFIN. I cannot give you the dates; no.

Mr. PECORA. It has appeared here that there were two examinations of the bank made by national-bank examiners in the year 1932, the first one in May and the second one in November. Now do you recall, Judge, having attended a meeting of the board, which was also attended by a national-bank examiner, and at which there was discussed a report of either one of those two examinations?

Mr. MURFIN. I have attended more than one meeting where the examiner has reported. My memory is, Mr. Pecora, that he reported to the executive committee rather than to the full board. I do not remember his ever being before the full board, but I cannot fix the dates.

Mr. PECORA. Do you recall attending such a meeting of the executive committee at which there was discussed, in the presence of and with a national-bank examiner, a report of an examination made?

Mr. MURFIN. Yes; I have been at such a meeting.

Mr. PECORA. Do you recall when that meeting was, and to which examination the discussion alluded?

Mr. MURFIN. No; I do not.

Mr. PECORA. Do you recall whether it was the meeting following the making of the examination of May 1932?

Senator COUZENS. It must have been that particular time, because you were not there the balance of 1932.

Mr. MURFIN. That is true. I do not think I was there at the May examination. I did not get around until the last of December or the first of January.

Mr. PECORA. Have you any recollection that you would rely upon now, as to what was discussed with the examiner at the meeting that you have in mind?

Mr. MURFIN. I was present one time—I do not remember when—when he told us that we had one of the best banks in the Seventh Federal Reserve District, but I cannot recall what date he told us that, or when that was.

Mr. PECORA. Who was the examiner who told you that?

Mr. MURFIN. There were two of them there. I do not remember their names.

Mr. PECORA. Was Mr. Leyburn one of them?

Mr. MURFIN. I would not know Mr. Leyburn if I should see him. I have talked with him on the long-distance phone.

Mr. PECORA. There is Mr. Leyburn, the gentleman sitting over there [indicating].

Mr. MURFIN. I have talked to him on the telephone [after turning and looking at Mr. Leyburn]. I have seen him. He was one of them.

Mr. PECORA. Do you recall distinctly that he was?

Mr. MURFIN. I think now that he was; yes. I have been looking at him here and wondering where I had seen him. I think he was.

Mr. LEYBURN. I think you are in error.

Mr. MURFIN. Maybe so.

Mr. PECORA. Was there more than one examiner at that meeting or conference you attended?

Mr. MURFIN. My memory is that there was another man with him.

Mr. PECORA. Do you recall the name of that other man?

Mr. MURFIN. No; I do not. I think there was another man with him, but I am not certain.

Mr. PECORA. Judge, is there anything else you want to call to the attention of this committee by way of any knowledge of facts that you have with regard to the Detroit Bankers Co. or any of its unit banks?

Mr. MURFIN. Why, no, Mr. Pecora. I would only suggest that you get people on the stand who know more than an ordinary director. I might say the more questions you ask me the more ordinary I feel, as a director.

The CHAIRMAN. What people would you suggest might give more information?

Mr. MURFIN. I beg your pardon?

The CHAIRMAN. What people would you suggest might give more information?

Mr. MURFIN. Mr. Mills, who is here, can give you a great deal of information. Mr. Wilson, who is here, can give you a great deal of information. A man who could give you as much as any other one man is Mr. Sweeny. He cannot be here. He is sick. There are other executive officers of the bank who could give you a great deal of information. Mr. McGonegal could give you a great deal of information. Senator Fletcher, my only thought is that the ordinary bank director does not know one tenth about the workings of the bank as the executive officers who are operating it. We all know that. I am just a common garden variety director.

Mr. PECORA. The only reason I have questioned you to this extent about these things, Judge, is because of the testimony you gave at

the one-man grand jury proceeding which, upon a cursory reading of it, rather impressed me with the thought that you felt you had considerable knowledge of the bank.

Mr. MURFIN. I did so feel, Mr. Pecora. I did think I had considerable knowledge. I think so yet. But on details I am lost, when you get into details. I do not know details and I do not like details.

Mr. PECORA. I have not asked you solely for details.

Mr. MURFIN. I am not complaining at all, sir. You have been very nice.

Mr. PECORA. Do you know that an examination of the bank was made as of the close of business on February 11, 1933?

Mr. MURFIN. I was told that on St. Valentine's Day they came in and started the new examination. That is the day the bank closed. That is only hearsay. I was told they came right in and started in their examination.

Mr. PECORA. For your information, then, Judge, let me read from the original report of that examination made to the Comptroller of the Currency, the following general remarks or comments——

Mr. MURFIN. Of course, that examination never came to our board.

Mr. PECORA. That is why I am saying, let me read it now for your information. Let me read these general remarks of the examiner in his report to the Comptroller [reading]:

A complete examination of this bank was impossible, due to the limited amount of time, and only a skeleton crew with which to work. Consequently there are numerous schedules which are not complete or omitted entirely. A comparatively recent report was made as of the close of business November 17, 1932.

In accordance with instructions from Chief Examiner Leyburn, no attempt was made to list slow loans, for probably over 90 percent of all loans not classified as doubtful or loss would be classified as slow under prevailing conditions.

I made no examination of the real-estate loans or contracts, but judging from the previous report of examination the bank will continue to acquire a substantial amount of real estate, and consequently a substantial amount of losses will be sustained.

In reviewing this bank's loans, appraisals of the paper were made on the assumption that some sort of a reorganization would be affected and that assets would be liquidated in an orderly manner under some sort of a composition of deposits and freezing of a substantial portion of the released portion of the balance of the deposits.

After the bank's loans had been completely reviewed it was learned that an immediate reorganization was impracticable, and a conservator had been appointed. In other words, under a conservator it is presumed that liquidation will be forced, and under forced liquidation it is highly probable that substantially more losses will be sustained than then estimated in this report.

In conclusion I have no hesitancy in making the statement that I believe this bank to be hopelessly insolvent.

Mr. MURFIN. What is the date of that, sir?

Mr. PECORA. This is as of February 11, 1933.

Mr. MURFIN. What is the date of that letter?

Mr. PECORA. This report is dated—the examination was closed on March 17, 1933.

Mr. MURFIN. I ask that question because the conservator came into the bank March 14, and before he had been there a month he sold one quarter of all we had.

The CHAIRMAN. Sold one quarter of what—securities?

Mr. MURFIN. He sold one quarter of all our assets.

The CHAIRMAN. What did they consist of—securities?

Mr. MURFIN. The new bank that was organized in Detroit bought one quarter of the assets of the First National Bank through the conservator, and he bought just such assets as he wanted. I have assumed he bought the choicest lot, but he bought one quarter of them, and I was wondering if this report was made after the conservator's sale or before.

Mr. PECORA. This report was the report of examination as of the condition of the bank at the close of business on February 11, 1933. The examination itself, according to the report, was concluded on March 17, 1933.

Mr. MURFIN. That was 3 days after the conservator came in.

Mr. PECORA. And this report appears to have been filed with the Comptroller on April 10, 1933. That answers your question, does it not?

Mr. MURFIN. Yes, sir. Thank you.

Mr. PECORA. I think that is all.

The CHAIRMAN. You may be excused, Judge.

Mr. MURFIN. Thank you.

Mr. PECORA. Judge, I will be glad to get that typewritten copy of the plan that has been discussed in the course of your testimony.

Mr. MURFIN. I will look it up and mail it to you, in care of this room in the Senate Office Building?

Mr. PECORA. Or at the Mayflower Hotel. It does not make any difference.

The CHAIRMAN. Who is the next witness?

Mr. PECORA. I think I will call Mr. Mills.

TESTIMONY OF WILSON W. MILLS, GROSSE POINTE FARMS, DETROIT, MICH.

The CHAIRMAN. Mr. Mills, you solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by the committee. So help you God.

Mr. MILLS. I do.

Mr. PECORA. Mr. Mills, will you give your full name, address, and business or profession to the reporter for the record?

Mr. MILLS. Wilson W. Mills; 19 Cloverly Road, Grosse Pointe Farms, Detroit, Mich. I am an attorney.

The CHAIRMAN. What is your present occupation, Mr. Mills?

Mr. MILLS. I am an attorney. I am not actively practicing.

Mr. Chairman, I have prepared a short statement as to the reasons for the closing of the First National Bank, Detroit. I ask permission to read it, or have it read, whatever is the custom of this committee, because I think it would be helpful to this committee in developing such facts as they may be desirous of developing. I think also it might possibly save some time of the committee. I am, of course, happy to answer all questions of any member of the committee, or its counsel.

The CHAIRMAN. Mr. Mills, please state what your connection or relation was with the bank.

Mr. MILLS. I was chairman of the board of directors of the First National Bank, in Detroit.

The CHAIRMAN. For how long?

Mr. MILLS. I had been in that office for 1 year, or a little over, perhaps. During the first 5 or 6 months I was the second officer of the bank, under Mr. John Ballantyne. At the time of his resignation I became the first officer of the bank.

The CHAIRMAN. What were your duties?

Mr. MILLS. I was with the First National Bank at the time of its organization on January 1, 1932, as chairman of the board. That was second officer of the bank. That position I continued in until some time in July, when I was elected chairman of the governing committee, succeeding Mr. Ballantyne. As chairman of the governing committee I retained the other title, chairman of the board, and later the office of chairman of the governing committee was abolished, and I continued as chairman of the board until the Michigan bank holiday, until conservators were appointed.

The CHAIRMAN. All right. Mr. Pecora may proceed.

Mr. MILLS. In addition to this statement, I have also—and possibly I have gone out of my way, but I do not wish to be presumptuous—prepared to make three or four possible suggestions for legislation, due to my experience in banking matters in Michigan. I presume you would prefer to have this other read later.

The CHAIRMAN. Yes; that might be given later.

Mr. MILLS I have here the prepared statement which I spoke of.

Mr. PECORA. What statement is that? I was out of the room for a moment.

Mr. MILLS. I said that I had a fairly short statement as to the reasons for the closing of the First National Bank. I was prompted to prepare that in the hope of being of some assistance to this committee in developing the facts I thought the committee were desirous of developing. Of course, I am anxious to answer any questions of counsel, the committee, or any member of the committee. But I thought this statement might be helpful in giving a clear idea of the whole matter.

Mr. PECORA. Have you a copy of that prepared statement for my use?

Mr. MILLS. Oh, yes.

Mr. PECORA. May I have it, please?

Mr. MILLS. Yes; I will give you the original.

Mr. PECORA. As I understand, you want to read this into the record?

Mr. MILLS. I should like to have it read, or to read it myself.

Mr. PECORA. I will ask you a few preliminary questions about it, and then you may read it into the record. When was this statement prepared?

Mr. MILLS. It was prepared by me during the course of the last 3 or 4 weeks, or 2 or 3 weeks.

Mr. PECORA. Was it just prepared by you without the assistance of any one else?

Mr. MILLS. That is correct. I read it to 3 or 4 people afterward, and occasionally adopted a suggestion.

Mr. PECORA. Mr. Chairman, I suggest that the witness read his prepared statement into the record; or, if you wish me to do it, I will read it.

Mr. MILLS. Whichever you prefer.

Mr. PECORA. You just go ahead and read it.

Mr. MILLS. Amongst other purposes this committee is sitting to consider possible legislation under which such a situation as arose in Michigan, and later spread throughout the Nation, will not again occur. Everyone must be in favor of such objectives.

I have been a bank officer 2 years from March 1, 1931, becoming then chairman of the Peoples Wayne County Bank, of Detroit. After its consolidation with the First National Bank, January 1, 1932, I became second officer of that institution for about 6 months and was first officer of it for about the same period prior to the State banking holiday in Michigan. During this 2-year period I was a director of the Detroit Bankers Co.—never was I an officer of that corporation. I entered the banking business very reluctantly, at a substantial pecuniary sacrifice, and only upon the importunities of the late Julius Haass, then president of the Detroit Bankers Co., which had been formed over a year before, and of various large stockholders.

After I undertook this service I found in the situation many problems, all of which were the outgrowth of transactions made prior to my becoming an officer. For instance:

A. The bank had made many loans predicated upon a tremendous number of shares of stock of the Detroit Bankers Co. (these coming into the bank by virtue of the exchange of unit banks for stock of the Detroit Bankers Co.).

B. The Detroit Bankers Co. had obligated itself to pay some 7 million dollars of debts of a subsidiary and had directly borrowed funds in the neighborhood of an additional million dollars to acquire complete ownership of seven small banks in Wayne County.

C. A subsidiary of the Detroit Bankers Co. had acquired partial ownership of some 10 banks throughout the State of Michigan.

D. The Detroit banks of the Detroit Bankers Co. having just merged, and still consisting for many practical purposes of the five or six constituent units presented tremendous problems of organization and personnel—it was very much the same type of problem which would be encountered upon suddenly consolidating the United States Steel Corporation and the Bethlehem Steel Corporation.

E. At the time of the organization of the Detroit Bankers Co. there were somewhat over 200 branches, all in the city of Detroit, which presented serious problems.

F. The banks were not as liquid as conditions developing at the time required, and they had in excess of 150 million dollars of mortgages and had otherwise attempted to take care of the demands of the community. Detroit had experienced probably the most rapid, phenomenal, and mushroom growth of industry of any community in the United States. Due to the automotive industry centralizing in Detroit, literally trainloads of people had been arriving daily to make their residence there. Schools had to be erected, churches established, and homes built for this influx of people, and the old

banks were the only ones to do it. They became a part of the warp and woof of the fabric of the community.

G. The bank had outstanding large amounts of loans predicated upon the slowest type of security, but to individuals who were considered good financial risks. Also some of the constituent banks had encouraged employee-ownership of stock, and upon a declining market many officers and employees, as well as others, became involved.

H. Within 2 weeks after I became an officer of the Peoples Wayne County Bank, the Detroit Clearing House and Trust Cos. voted to take over the expiring American State Bank, with assets of about $50,000,000, and its liquidation was entrusted by the Detroit Clearing House and Trust Cos. to the Peoples Wayne County Bank.

It is easy to criticize these conditions from the vantage of the viewpoint of 1934, but such hindsight gives us an altogether distorted conception of what occurred 4 or 5 years ago, and the condition in Detroit due to the growth of the automobile industry probably made many of these actions seem advisable. Things must be viewed in the light of what was then happening in order to see them in their proper perspective.

To meet this legacy of grief which I inherited upon coming into the bank, policies were instituted to cut down all the loans predicated upon Detroit Bankers Co. stock—if I might interpolate a word here: Why, the record will show more Detroit Bankers Co. stock at the end than at this time, was because practically all of that came in by way of relief or additional collateral to loans already in existence—to liquidate the net indebtedness above mentioned of the Detroit Bankers Co., and to reduce its operation and expenses (which latter could not be accomplished until Mr. E. D. Stair consented to serve as president upon the understanding this would be done), to solve the problems arising by virtue of partial ownership in the 10 banks throughout the State, to increase the liquidity of the bank, and to increase its strength and to liquidate its loans, and finally to organize its personnel and to coordinate its staff.

How well this task was in progress may probably best be pointed out by the statement that in the last 1½ calendar years of the existence of the bank—and you will understand by the word "bank" I mean the two constituent banks, the Peoples Wayne County Bank and the First National Bank—i.e., June 30, 1931, to December 31, 1932, it lost about $143,000,000 of deposits. In the last calendar year alone, it lost $60,000,000 of deposits, paid over $27,000,000 of bills payable that existed on the 1st day of January 1932, charged off $15,000,000 of bad or doubtful loans, or a total liquidation in the last calendar year of over $102,000,000 and maintained not far from the same percentage of liquidity at the end of the year which it had at the beginning. We desired a higher degree of liquidity but were unable to attain it owing to the heavy withdrawals of the last 18 months. In the last 18 months over $30,000,000 was charged off on account of loans, and so forth previously made. I firmly believe no bank of comparable size in the United States—with assets such as these banks had—could have done as much. You have the case of a bank successfully handling a shrinkage of deposits of

$143,000,000 in 18 months, without borrowing a cent from the R.F.C. It had done a good job.

During this period, the depression was on in full force throughout the country, although I believe that Detroit was feeling the depression worse than any other part of the United States due to its highly specialized type of industry, and people were now leaving Detroit by carloads and the housing and church problems which had been so acute up to 1930, were found almost overnight to have become greatly extended. In 1932 Detroit was in the very depths of the depression. Of course, all this was felt by everyone in the community, including the bank by falling values and deposit withdrawals.

During the time I was principal officer of the First National Bank, i.e., after July 1932, there was one bank examination of the institution. At that time every cent which the examiner requested be charged off was charged off and the examiner complimented the bank upon the aggressive steps which it was taking to meet the difficult situations above set forth. The examiner also had suggestions and criticisms, which we were glad to have and which we attempted to put into execution where practicable. At no time during my connection as principal officer of the bank was any dividend paid by the bank or by the Detroit Bankers Co., which had not received the full and prior approval of the chief national bank examiner for the district. We recognized we had problems, but we were well on our way to solve them. Expenses of the bank had been, during the year 1932, greatly reduced, that for 1932 being $2,753,000 less than in 1931. Operating expenses had been reduced about $1,200,000—in spite of the fact that many of these economies had only been in effect a few months of the year. We employed every method to increase our gross income and lessen expenses. The bank, in late 1932, had become a well organized, homogeneous institution, ready to face any reasonable situation.

In 1931 the National Credit Corporation was formed for the express purpose of saving banks by making loans to banks upon slow collateral. The Peoples' Wayne County Bank joined the corporation and loaned its credit—approximately one third of the total credit of this association in Michigan—to all banks in Michigan seeking aid, and it has been reliably estimated by members of the Michigan National Credit Board that over 50 banks were saved by this action. The Peoples' Wayne County Bank, or the First National Bank, never made application to borrow 1 cent from the National Credit Corporation. The bank was still following its established policy of trying to be helpful to the community, to the State and Nation by lending our credit.

The R.F.C. was formed early in 1932, but at no time did the First National Bank seek or request a loan from it until the Lincoln Birthday week-end, immediately prior to the Michigan bank holiday, when the First National Bank was for the first time informed of the imminent and critical condition of the Union Guardian Trust Co. it requested a loan from the R.F.C., but was able to obtain no commitment from it whatsoever, so that the holiday in Michigan might have been avoided. After the receivership loans were made to the receiver by the R.F.C. to the extent of, I should imagine, $70,000,000,

upon collateral which was available for such loan before the Michigan holiday. Such a loan then would have avoided the holiday—but it was not forthcoming.

It is probably unnecessary to again set forth here the events leading up to the Lincoln Birthday week-end holiday in Michigan. Although the chief national-bank examiner for the district was fully aware since at least the end of January of the pressing needs of the Union Guardian Trust Co., neither he nor any Government official, nor anyone connected with the Union Guardian Group, informed the First National Bank thereof (rather, however, several days before a high officer of the Union Guardian Group stated they were experiencing no difficulty), although the examiner states in his testimony that he had long recognized the seriousness of the condition of the Union Guardian Trust Co., describing it as a cancer, and in the event of its failure the serious effect upon other institutions in the State. Two days before the declaration of the holiday was all the time given the First National Bank to meet such a devastating emergency (one of these days was a Sunday and the other a holiday). In spite of the shortness of time and the difficulties, the officers of the First National Bank did everything they could to put their institution in shape to meet such a tremendous earthquake. We were arranging loans from our New York correspondents; we were attempting to arrange loans from the Federal Reserve Bank of Chicago; and requested aid from the R.F.C., which for some inexplicable reason was not forthcoming. We had close to $60,000,000 of cash or its equivalent which was free.

Mr. PECORA. What did you say there?

Mr. MILLS. I added the words "which was free."

Mr. PECORA. And that does not appear on your prepared statement.

Mr. MILLS. No.

Mr. PECORA. All right. Go ahead with your prepared statement.

Mr. MILLS. The First National Bank would have opened on Tuesday after Lincoln's Birthday and conducted its business, had it not been for the attitude of the Ford Motor Co., which then stated that if the Guardian were not permitted to open the Ford Motor Co. would withdraw its own and its controlled deposits, amounting to approximately $20,000,000, from the First National Bank "the first thing Tuesday morning."

For some reason, as has been testified by Mr. Edsel Ford, the Ford Motor interests reached the conclusion that, unless the Guardian were permitted to open, they would withdraw their deposits from the First National Bank. These institutions were in no way related. Why Mr. Ford should state he withdraw an enormous deposit from the First National Bank unless another and entirely separate and competing institution were saved, is to me unknown. In spite of these things the First National Bank would have reopened a few days after the holiday—and I wish to interpolate, possibly on a restricted basis.

Mr. PECORA. Where do you say you wish to interpolate that?

Mr. MILLS. After the word "holiday."

Mr. PECORA. And you say, "possibly on a restricted basis"?

Mr. MILLS. Yes, Mr. Pecora.

Mr. PECORA. Go ahead.

Mr. MILLS. If it had received aid from the R.F.C. and if the chief national bank examiner of the district had not stated on the first day of the Michigan holiday to some of the depositors of the bank that the First National Bank had so many undesirable assets—he listed for the first time, that is, to our knowledge, approximately $200,000,000 of assets as being undesirable, even going so far as to so list every mortgage owned by the institution (it had over 50,000 mortgages, the average mortgage being only about $2,800 and practically all upon homes in Detroit), and he did not even allow the bank any banking premises, and some $8,000,000 or $10,000,000 of Catholic Church loans guaranteed by the Detroit diocese, amounting to at least $30,000,000 or $40,000,000, was likewise classified as undesirable, as were $7,000,000 of notes of the city of Detroit.

This, of course, planted seeds of suspicion of insolvency of the bank in the minds of certain of the large depositors and made any general reopening doubly difficult. At the time the Michigan holiday proclamation was about to be signed, the same examiner stated in the presence of many witnesses that the holiday would be of but short duration—to give the banks time to secure aid.

Nearly three quarters of a million different accounts were in the First National Bank and these people are, I believe, entitled to know why the then chief national bank examiner of the district, to the bank's directors, should both verbally and in writing on two occasions signal the green light "full speed ahead", and then have the train run into a closed switch.

On December 30, 1932, 6 weeks before the Michigan bank holiday, the then chief examiner of the district stated orally to the following directors of the bank: W. T. Barbour, J. P. Bowen, E. W. Clark, J. B. Ford, Jr., James S. Holden, J. T. McMillan, T. H. Newberry, Leo Butzel, and myself, and James M. Dodge, a vice president, that the bank might continue to pay dividends upon its stock, and in his written report, dated in January 1933, in effect the same statement was made. It is also true that this report listed some $83,000,000 of doubtful assets, and large amounts of slow loans, but the bank never claimed to have a high degree of liquidity. I have heard no charge of any material changes of assets and liabilities after the examination, except liquidation of assets to meet deposit withdrawals.

Now the permission for the payment of dividends is the very negation of insolvency. Nothing could speak more strongly. Note how much further the examiner went in his oral and written reports than merely stating the bank was solvent—he went so much further as to say, in effect, "not only is the bank solvent but it is so solvent that no harm can come from the payment by the bank of dividends." The examiner must have believed in the full solvency of the bank or he would not have permitted the bank in the future to pay dividends. He did state that the Detroit Bankers Co. was not to pay any dividend in 1933 without first securing the permission of the comptroller.

During my 6 months as principal officer of the First National Bank no dividend was paid by it, or by the Detroit Bankers Co.,

which did not have the full and prior approval of the chief national bank examiner of the district. The last dividend was only 6 weeks before the Michigan holiday. The permission to pay dividends far transcends the question of solvency.

Again, on March 10, 1933, 3 days before a conservator was appointed and while the national banking holiday was in full swing, the same examiner stated to Messrs. Ralph Gilchrest, F. M. Alger, E. W. Clark, J. B. Ford, Jr., Leo Butzel, J. M. Dodge, D. N. Sweeny, Thomas Long, and myself, all—except myself—being prominent citizens of Michigan, that the bank was solvent and further stated that the above gentlemen should "not use or even think of the word 'insolvency.'"

During the holiday when we could receive no definite commitments from the R.F.C., the reasons for which have been set forth in this proceeding in the testimony of Mr. J. K. McKee, we then concentrated our efforts upon securing State legislation which would have permitted the First National Bank to open on a partial basis, freezing a percentage of its deposits, but conserving its tremendous earnings for the benefit of depositors.

The earnings of the First National Bank, I am informed, were larger per dollar of deposits than that of probably any bank in the United States. Criticism may always be pointed to any method of determining in dollars and cents the earnings of any institution, but I think there can be no question but that the earnings of the First National Bank for the year 1933 would certainly have amounted to over $7,500,000. This means in 4 years the tremendous amount of $30,000,000, every penny of which would have been available to depositors of the bank. Instead, the bank was closed, and the best of earnings assets were sold to another institution, giving the benefit of these earnings to the stockholders of the other institution instead of to the depositors of the old institution, to whom such earnings rightfully belonged.

The question, of course, remains: Why was the First National Bank closed? Certainly, in my judgment, it was not insolvent. If the examiner had a doubt of solvency he might have permitted the bank to remain open, but it passes the bounds of one's imagination to conceive of his permitting the bank to pay dividends right up to the holiday which was expressly approved by him. Personally, I have no doubt whatsoever as to the solvency of the First National Bank at the time of the holiday, and this is best attested to by the fact that my own personal deposits, those of members of my family, and of corporations of which I was a director, were probably at their very peak, as were those, incidentally, of practically every other director in the bank and of their affiliated corporations. I believe that the First National Bank situation had become so inextricably tied up in the public and financial mind, and the official mind, with the Guardian Group situation that its own situations, its inherent ultimate soundness, and its ability to carry on in the service of the community and in the interest of its depositors, was entirely lost sight of. I believe, too, that if the Government agencies which were dealing with the banking situation in Detroit had it to do over again the First National Bank would today be one of the large banks of the country still serving its community. I thank you.

The CHAIRMAN. Mr. Mills, what was your salary as an officer of the bank, I mean the first officer of the bank?

Mr. MILLS. In 1931 it was $50,000 a year. In 1932 it was $40,000 a year until March 1, 1933, and it was restored to $50,000 a year. I had a contract when I came to the bank. And on March 1, 1933, I reduced it to $25,000 a year.

Mr. PECORA. Mr. Chairman, the hour for recess has arrived, and I suggest that we take a recess until 2 o'clock. In the meantime I can look over this statement.

The CHAIRMAN. All right.

Mr. PECORA. Mr. Mills, will you give me a copy of that prepared statement that you have just read into the record, so that it may be marked in evidence?

Mr. MILLS. I have handed a copy to the committee reporter.

Mr. PECORA. Well, that may be marked as an exhibit. Of course it has already gone into the record, as you read it.

(Thereupon the statement prepared and read by the witness was marked "Committee Exhibit No. 132, February 2, 1934", and is shown immediately above where read by the witness, and, in addition, the matter the witness interpolated while reading the prepared statement.)

The CHAIRMAN. The subcommittee will now stand in recess until 2 p.m.

(Thereupon, at 12:55 p.m., Feb. 2, 1934, the committee recessed, to meet again at 2 p.m. the same day at the same place.)

AFTERNOON SESSION

The hearing was resumed at the expiration of the recess.

The CHAIRMAN. The committee will come to order.

TESTIMONY OF WILSON W. MILLS, DETROIT, MICH.—Resumed

Mr. PECORA. Mr. Mills, in the prepared statement which was read into the record this morning by you, a copy of which was marked in evidence, you state that you had been a bank officer 2 years from March 1, 1931, at which time you became chairman of the Peoples Wayne County Bank of Detroit. Prior to March 1, 1931, had you been a member of the board of directors of any banking institution in Detroit or elsewhere?

Mr. MILLS. I became a director, was elected a director of the Dime Savings Bank, I think it was in 1926. That is the best of my recollection. That bank later became the Bank of Michigan by a merger, and I continued as a director of that bank; and in 1930, I believe it was, that bank was merged with the Peoples Wayne County Bank, and I continued as a director for 6 or 7 months with the Peoples Wayne County Bank.

Mr. PECORA. Your first banking experience, then, as a director of any banking institution commenced in 1926?

Mr. MILLS. I think it was 1926; yes, sir; approximately.

Mr. PECORA. Did you become a stockholder of the Detroit Bankers Co. at the time of the organization of that company?

Mr. MILLS. I exchanged my stock in the Bank of Michigan for Detroit Bankers Co. stock.

Mr. PECORA. And at the time you became chairman of the Peoples Wayne County Bank of Detroit on March 1, 1931, did you receive a salary as such chairman?

Mr. MILLS. I did, sir.

Mr. PECORA. That was the bank that was consolidated with the First National Bank in Detroit at the end of 1931?

Mr. MILLS. Yes. As a matter of fact, so there will be no misunderstanding, I was elected chairman in January 1931 with the understanding that I would not assume duties or take any compensation until March.

Mr. PECORA. And you became chairman of the board of the consolidated bank immediately upon that consolidation becoming effective?

Mr. MILLS. I did. I was the second officer of the bank.

Mr. PECORA. By the second officer of the bank, do you mean that you were the senior executive next to the president?

Mr. MILLS. No; the chairman of the governing committee was the senior executive of the First Wayne National Bank, under the bylaws.

Mr. PECORA. Who was that officer?

Mr. MILLS. Mr. Ballantyne.

Mr. PECORA. When did you become chairman of the governing board?

Mr. MILLS. I was elected to that position in July or August—I think it was July of 1932.

Mr. PECORA. And continued to serve in that capacity until a receiver for the bank was appointed?

Mr. MILLS. Not quite. The office was later abolished in an effort to cut down bylaws, and so forth. The office was abolished and I was given the office of chairman of the board, and that became the highest ranking office.

Mr. PECORA. The highest executive officer?

Mr. MILLS. With the same powers as the chairman of the governing committee had had before.

Mr. PECORA. Are you familiar with the testimony which Mr. Ballantyne gave here during the past week in which, in substance, he stated that as chairman of the board of the First National Bank he felt that he did not have the power under the bylaws, and had been so advised, that he thought should attach to the position which he held?

Mr. MILLS. I read that statement, substantially as you have made it, in the press; yes, sir.

Mr. PECORA. Was that the condition of affairs?

Mr. MILLS. Might I introduce the bylaws in evidence?

Mr. PECORA. It is unnecessary. You are an attorney, and perhaps you can simplify it.

Mr. MILLS. I think they would be the better evidence. I would state that in my judgment under the bylaws there was ample power given to the chief executive officer of the bank. Like all matters, certain things are subject to veto power by the board, or, in this case, by the governing committee.

Mr. PECORA. When were the bylaws you have in your hand now adopted in the form in which they appear in that copy?

Mr. MILLS. This is the final amended form. There was a change in an effort——

Mr. PECORA. What year?

Mr. MILLS. 1932. It is substantially the same as to the power of the governing board.

Mr. PECORA. You say "substantially the same", from which I am inferring that there was some change made in that provision.

Mr. MILLS. The only change that I recall that was made in that provision was to give to the chairman of the board the power that had previously been enjoyed by the chairman of the governing committee.

Mr. PECORA. Can you produce here a copy of the bylaws of the bank that were in effect just prior to the resignation of Mr. Ballantyne.

Mr. MILLS. I have not them. It may be that Mr. Long, who is present, has them in his files.

(Addressing Mr. Long:) Have you the original bylaws?

Mr. LONG. I have my copy.

Mr. MILLS. Will you give it to me, please?

Mr. Long has handed me what he states is a copy of the bylaws as they existed at the time of the organization of the bank and which were in force during Mr. Ballantyne's administration.

Mr. PECORA. Do I understand that those were the bylaws, to which you now refer, which were in force just prior to Mr. Ballantyne's resignation in 1932?

Mr. MILLS. So I am informed by Mr. Long, and they would seem so to me.

Mr. PECORA. I ask that they be marked for identification; not in evidence, but just marked for identification.

Mr. LONG. That is my private file, Mr. Pecora. Will I have to leave it here?

The CHAIRMAN. You will not have to leave it.

(Bylaws produced by Mr. Long, entitled "Bylaws of First Wayne National Bank, of Detroit, as recommended Dec. 18, 1931, and adopted Dec. 31, 1931", were marked for identification "Committee Exhibit No. 133, Feb. 2, 1934.")

Mr. PECORA. The bylaws that have been marked for identification as the Committee's Exhibit No. 133 for identification are entitled "Bylaws of First Wayne National Bank, of Detroit, as recommended December 18, 1931; and adopted December 31, 1931." Let me ask you this, Mr. Mills: Do you know that the form in which the bylaws here in this copy thereof which has been marked for identification was retained up to the time of Mr. Ballantyne's resignation, or had there been any changes or amendments prior to that time?

Mr. MILLS. I am almost certain that there were no changes or amendments until after Mr. Ballantyne's resignation. I am almost certain of that.

Mr. PECORA. Have you a copy of the bylaws as then changed or amended?

Mr. MILLS. I have a copy of the bylaws as they were on February 11.

Mr. PECORA. Of what year?

Mr. MILLS. 1933.

Mr. PECORA. Do they contain the amendments which have been referred to?

Mr. MILLS. They are a complete copy of the bylaws as they then were.

Mr. PECORA. How many times had they been amended between the time of the resignation of Mr. Ballantyne and the date in February 1933?

Mr. MILLS. To the best of my recollection, only once. There were several amendments to simplify matters. There may have been two, but to the best of my recollection there was one.

Mr. PECORA. Will you produce the bylaws that you now have, Mr. Mills?

Mr. MILLS. Yes, sir [producing a document and handing it to Mr. Pecora].

Mr. PECORA. I ask that this be marked for identification.

Mr. MILLS. They were amended and adopted December 6, 1932. There may have been a minor change in the meantime, but if so I do not recall it.

(Document produced by the witness containing bylaws in effect on February 11, 1933, was marked for identification "Committee Exhibit No. 134, Feb. 2, 1934.")

Mr. PECORA. Will you point out by reference to the section of the bylaws the change that was made with respect to the powers, duties, and authority of the executive head of the bank, the chairman of the governing body?

Mr. MILLS. All I recall, Mr. Pecora, was this: You would have to compare the two, but the sum and substance of it, according to my recollection, was that the title of chairman of the governing committee was abolished and his functions were assumed by the chairman of the board; and in the redraft where the former had said that the chairman of the governing committee shall do so and so, it now said that the chairman of the board shall do so and so.

Have I made that clear?

Mr. PECORA. I think so.

Mr. MILLS. Article IV seems to be the section in question. I have marked part of it. Section VI seems to be the section—I think it is the same in the original. They can readily be compared.

Mr. PECORA. Section 6, subdivision A, article IV of the bylaws marked for indentification as "Exhibit No. 134", reads as follows [reading]:

> The chairman of the board of directors shall be the chief executive officer of the bank and subject to the actual affirmative exercise of the powers by law pertaining to and vested in the board of directors, whether so exercised by the board itself or by the governing committee or the executive committee within the scope of the jurisdiction and function of these bylaws vested in each of said committees, respectively. The chairman of the board of directors shall have general executive control over the conduct of all the business and affairs of the bank and over the functions and activities of all officers and agencies of the bank.

Mr. PECORA. Who was the chairman of the governing committee just prior to Mr. Ballantyne's resignation from the bank?

Mr. MILLS. He was the chairman of the governing committee, and there was none before. As far as I know, the old First National Bank before the consolidation had none. I was not a director of the old First National Bank.

Mr. PECORA. Who was the chairman of the board of directors while Mr. Ballantyne was chairman of the governing committee of the board?

Mr. MILLS. I was. In general, Mr. Pecora, the ranking of the officers under the bylaws could be summarized, until they were amended by the exhibit which you hold in your hand, as follows: The principal officer was the chairman of the governing committee. The second officer was chairman of the board. The third officer was the vice chairman of the board. The fourth officer was chairman of the executive committee. The next one was vice chairman of the executive committee. And then came the president. There was an awful raft of titles which we tried to simplify. That was one purpose for the amendments in the copy which you have.

Mr. PECORA. The president of the bank was really the fifth or sixth ranking officer?

Mr. MILLS. Yes. Under the bylaws he had certain duties assigned him.

Mr. PECORA. I wonder if that was the situation that called forth the suggestion, comment, or criticism of Mr. Verhelle in his confidential memorandum to you of May 18, 1932, which is in evidence here, and in which, as I recall it, he alluded to the fact that many of the senior officers of the bank had no special duty or functions or responsibilities.

Mr. MILLS. Up to a certain point that was true; but in June or July specific, definite duties and responsibilities attaching were assigned to every officer in the bank.

Mr. PECORA. June or July of 1932?

Mr. MILLS. Yes.

Mr. PECORA. That was a month or two following the making of that criticism by Mr. Verhelle?

Mr. MILLS. Yes, sir. We were working on it at the time.

Mr. PECORA. In your prepared statement you said, among other things, as follows [reading]:

> The bank had made many loans predicated upon a tremendous number of shares of stock of the Detroit Bankers Co. (this coming into the bank by virtue of the exchange of stock of unit banks for stock of the Detroit Bankers Co.).

Do you know how many loans, Mr. Mills, had been made by the bank of that category?

Mr. MILLS. I can only answer in this way: That when I went into the bank there were loans in there which were predicated on Bankers Co. stock, which in turn had been predicated on individual bank stocks. If I might illustrate this way: Someone in the Dime Savings Banks bought stock of the Dime Savings Bank, and to pay for it he went, we will say, to the Peoples Bank or the Merchants Bank or the Peninsular bank and borrowed on it and put up his stock as collateral. When the Detroit Bankers Co. was formed that stock was exchanged into Detroit Bankers Co. stock, and eventually these banks that I have named were merged in the Peoples Wayne County Bank or the First National Bank, so they ended up with both the collateral and the loan.

Mr. PECORA. When you became the senior officer of the bank, how many such loans were in the bank?

Mr. MILLS. There were a large number of loans.

Mr. PECORA. Which were collaterized by stock of the bank?

Mr. MILLS. I could not state the number exactly. There was a very substantial amount of them. That amount was later increased by relief collateral. The officers of the bank were instructed, when the collateral back of a loan became low, to go out and get more collateral, and a substantial additional amount of relief collateral was brought in in that way, of the Detroit Bankers Co.

Mr. PECORA. After the formation of the Detroit Bankers Co. and the acquisition by it of the capital stock of these five original unit banks, which included that bank, was not this process of loaning money on the stock of the Detroit Bankers Co. tantamount in substance to the bank loaning upon its own stock?

Mr. MILLS. No, Mr. Pecora; I would not agree with that at all.

Mr. PECORA. Why not?

Mr. MILLS. The Detroit Bankers Co. had other very substantial investments. They owned stock, all the stock—or substantially all—of the Detroit Trust Co. They had the First Detroit Co. There was a very substantial amount of other assets that the Detroit Bankers Co. owned outside of the bank.

Mr. PECORA. But the Detroit Bankers Co.'s principal assets consisted of the capital stock of the banking units?

Mr. MILLS. Its principal stock, yes; but not the only assets.

Mr. PECORA. What proportion of its assets consisted of stock of other companies or units?

Mr. MILLS. If you include the Detroit Trust Co. as a bank——

Mr. PECORA. I am. It did a banking business, did it not?

Mr. MILLS. That may be a legal question. I presume it did; but it is a legal question. I do not know.

Mr. PECORA. Lest there be any doubt about it, in the annual reports of the Detroit Bankers Co., which contain a combined statement or balance sheets of all the banking units, so called, was there not included the balance sheet of the Detroit Trust Co.?

Mr. MILLS. Oh, yes.

Mr. PECORA. So that the Detroit Bankers Co. regarded the Detroit Trust Co. as one of its banking units?

Mr. MILLS. Obviously I would think that would follow.

Mr. PECORA. That being the fact, namely, that the principal assets by far of the Detroit Bankers Co. being the capital stock that it owned of its unit banks, when these unit banks made loans on stock of the Detroit Bankers Co. they were in substance, if not in form, making loans virtually upon the security of their own stock, were they not?

Mr. MILLS. I will say no, for two reasons, Mr. Pecora. In the first place, there were very few loans made. In fact, I only know of one or two loans that were made in my day on Detroit Bankers Co. stock. Most of the loans, as I have tried to explain, were made on stocks of the constituent banks, which were later exchanged for Detroit Bankers Co. stock, and at the time of the consolidation it was approved by the comptrollers' office. Secondly, I have always understood that there was an opinion from the Attorney General of Michigan—I have never seen it—who stated they were very different things.

Mr. PECORA. I am asking you to ignore form and consider substance in this questioning, Mr. Mills. I appreciate the differences in

form and substance, but I will ask you if it is not the fact that in substance these unit banks of the Detroit Bankers Co. that had loans collateralized by stock of the Detroit Bankers Co. were in effect, although not in form, having those loans collateralized by their own capital stock.

Mr. MILLS. They were not originally made that way.

Mr. PECORA. Whether they were made that way originally or not, the fact is that when those loans found their way into the unit banks of the group, in effect that is what they were—loans collateralized by the stock of the bank?

Mr. MILLS. I am afraid that I am too much of a lawyer to disregard form entirely.

Mr. PECORA. That is one of the weaknesses of lawyers.

Mr. MILLS. It is.

Mr. PECORA. They place more stress on form than they do on substance.

Mr. MILLS. Very frequently.

Mr. PECORA. It is a happy thing to notice that the United States Supreme Court only very recently saw fit to cut through form and consider substance.

Mr. MILLS. I was delighted to see that decision.

Mr. PECORA. I hope the legal profession will follow in the wake of that decision.

When you became the executive head of the bank in 1932, the fact that the bank found itself with this heavy concentration of Detroit Bankers Co. stock presented a problem to you, did it not?

Mr. MILLS. It did, sir.

Mr. PECORA. What were the essential features of that problem as you recognized it to be a problem?

Mr. MILLS. I recognized the problem that there was too much of a concentration of loans in the bank predicated upon Detroit Bankers Co. stock to be, in my view, good banking practice. Please understand that I do not wish to blame any predecessor or anybody connected with the old banks. That is not the purpose of my statement. But I recognized that due to these consolidations, in my judgment there was too much concentration of Detroit Bankers Co. stock. We also had too much concentration of various stocks of various other corporations; and the officers were instructed to do what they could to lessen those concentrations.

Mr. PECORA. That is what I was coming to. What was done by you as the chief executive officer of the bank to solve the problem when you found yourself confronted with that particular problem.

Mr. MILLS. First, I recommended to the board or to the governing comimttee that we make practically no more loans upon Detroit Bankers Co. stock.

Mr. PECORA. That did not solve the problem itself. You still found the problem there, did you not? You simply resorted to methods which prevented the aggravation of that problem?

Mr. MILLS. That is only one of the things I did. I do not wish to have the problem aggravated. It was already a severe problem. Secondly, the officers were instructed to do everything they could to have the Detroit Bankers Co. stock substituted by other collateral.

Mr. PECORA. Was that done? Was anything done along those lines?

Mr. MILLS. Reports were made to me from time to time. Unfortunately, I do not think that a tremendous amount of progress was made, because a large part of the wealth of Detroit was represented by bank stocks.

Mr. PECORA. Was any progress at all made along that line?

Mr. MILLS. Oh, yes.

Mr. PECORA. Was there a reduction of that concentration of collateral from that time on?

Mr. MILLS. Please do not misunderstand me. I stated or interpolated in my statement this morning that the amount of collateral held by the banks in the Detroit Bankers Co. stock actually increased. That increase came about where loans became dangerously low or "under water" or where we could not get out of these loans, when the debtors could not pay and we insisted on more collateral, and all they had was Detroit Bankers Co. stock, and we took it in to sweeten the loan.

Mr. PECORA. To that extent the solution of one problem of under-collateralized loans was practically checked by an aggravation of another form, namely, that of increasing this concentration of Detroit Bankers Co. stock?

Mr. MILLS. Oh, no, Mr. Pecora; because if a man had nothing else, certainly it did not harm our position to take in more Detroit Bankers Co. stock.

Mr. PECORA. Taking more of the Detroit Bankers Co. stock did not relieve the problem that was existent because of the presence of that heavy concentration of Detroit Bankers' Co. stock?

Mr. MILLS. No. We had two problems—more than two; but two of them were that some of these loans became under-collateralized. Other securities became under-collateralized, and it was to sweeten them that the Detroit Bankers Co. stock was taken as relief collateral.

Mr. PECORA. Let us pass on to the next paragraph in your prepared statement, which reads as follows, referring to another problem [reading]:

> The Detroit Bankers Co. had obligated itself to pay some $7,000,000 of debts of subsidiaries and had directly borrowed funds in the neighborhood of an additional million dollars to acquire compete ownership of seven small banks in one country.

The obligation of the Detroit Bankers Co. referred to therein was this obligation that was incurred or had been incurred by the First Detroit Co.?

Mr. MILLS. The First National Co., I believe.

Mr. PECORA. That is the indebtedness of $7,200,000 that has already been referred to in the evidence here?

Mr. MILLS. That is the item that I first referred to, of some 7 millions of dollars. My recollection is that the Detroit Bankers Co. had directly borrowed $1,000,000 mentioned in the second portion.

Mr. PECORA. The third problem specified by you in your prepared statement is referred to as follows [reading]:

> A subsidiary of the Detroit Bankers Co. had acquired partial ownership of some 10 banks throughout the State of Michigan.

Which subsidiary was that?

Mr. MILLS. I was informed, the First National Co.

Mr. PECORA. Which were the 10 banks alluded to in that statement?

Mr. MILLS. I saw your chart this morning, on the wall, and I presume it is correct. I do not know the names of them all. There was a bank at Alpena, a bank at Bay City, one at Saginaw, at Lansing, and various places.

Mr. PECORA. Another one of the problems referred to by you in your prepared statement is set forth as follows [reading]:

> The bank had outstanding large amounts of loans predicated upon the slowest types of security but, to individuals who were considered good financial risks. Also some of the constituent banks had incurred employee ownership of stock, and upon a declining market many officers and employees as well as others became involved.

Now, with reference to the first portion of that statement, the fact that the bank had outstanding large amounts of loans predicated upon the slowest types of security, what were the loans you referred to therein, and what were the slow types of security that you allude to?

Mr. MILLS. A loan may have been made that was collateralized by a mortgage, which is an exceedingly slow type of security, but if it is a good risk it should be a good loan.

Mr. PECORA. Do you know what was the aggregate amount at the time you became the chief executive officer of the banks of those loans?

Mr. MILLS. The mortgage account direct was in the neighborhood of $150,000,000. They had other loans on real estate of—well, it would be a substantial amount. I don't know.

Mr. PECORA. These mortgage loans at their best are a slow type of security, are they not?

Mr. MILLS. Slow, but the best in the United States, Mr. Pecora, in my judgment.

Mr. PECORA. I was just merely discussing for the moment the fact that mortgage loans are at their best a slow type of security.

Mr. MILLS. Yes, sir.

Mr. PECORA. In 1932, when you became the chief executive officer of this bank, would you say that that security represented the best in the United States?

Mr. MILLS. Ultimately I think by and large; yes. Mr. Pecora, we had in that bank over 50,000 different mortgages. They had been made to Tom, Dick, and Harry. By that I do not mean using the term loosely, but made to employees or people to build homes. The average mortgage was only $2,800. A man will hang onto his home longer than he will hang onto a security. He will hang onto it longer than he will hang onto stocks or automobiles or anything, in my judgment. That is why I believe those mortgages were so darned good.

Mr. PECORA. But in 1932 did you consider that those loans secured by those mortgages represented loans secured by the highest type of security in the United States?

Mr. MILLS. Outside of Government bonds, yes; or obligations collateraled by Government bond, yes; because I do. They are the backbone of the country.

Mr. PECORA. To what extent had real-estate values in Detroit and its environs depreciated since 1930?

Mr. MILLS. It depends on the location.

Mr. PECORA. Well, generally speaking, referring to real-estate values generally?

Mr. MILLS. Possibly 30 or 40 percent. That is for an immediate sale. These mortgages, you understand, were made with savings funds which did not contemplate immediate throwing on the market.

Mr. PECORA. Which does not make the security any better, does it?

Mr. MILLS. I don't understand you.

Mr. PECORA. I mean, it did not protect those loans against the depreciated values of the real estate when that depreciation occurred?

Mr. MILLS. I am sorry—I am awfully sorry.

Senator COUZENS. Read him the question again.

The SHORTHAND REPORTER. Which does not make the security any better, does it? I mean it did not protect those loans against the depreciated values of the real estate when that depreciation occurred?

Mr. MILLS. My only answer to that is that I think a man's home—not only these but practically all of them—not all of them, but practically all—he will hang onto it and pay his principal, pay his interest anyway and his principal when he can.

Mr. PECORA. If he can?

Mr. MILLS. And when he can.

Mr. PECORA. But the fact that they were made originally to encourage home building, if you please—and I take it that is the thought you want to leave here?

Mr. MILLS. To provide homes, not to encourage it. To take care of this problem that had been brought to Detroit.

Mr. PECORA. Yes—did not protect thost loans against the ravaging effects of the depreciation in real estate which you say had taken place in the amount of 30 or 40 percent since the beginning of 1930?

Mr. MILLS. There is this additional thing which, so far as my knowledge goes, was rather peculiar of Detroit and the old banks of Detroit. The old banks in Detroit had put in a rule, clearing-house banks had put in a rule, I believe it was in the neighborhood of 1926, but that is my impression only, requiring amortization of mortgages, requiring 10 percent a year, or 2½ percent on principal be paid quarterly on the mortgages, and I know of countless mortgages in that institution that had been reduced from the original amount to practically nothing. I know some had been reduced to as low as $5 and kept there.

So when you compare the decline in market values of real estate, also bear in mind that many of these—it should be borne in mind that many of these—mortgages had been exceedingly well amortized and had been paid down from the initial amount of the mortgages.

Mr. PECORA. To what extent had that operated to reduce the original mortgage indebtedness secured by these?

Mr. MILLS. I never saw any figures on the total, but I kept after the mortgage officers and mortgage end of the bank. One of the jobs I had was to continue to insist with them that they must weigh those amortization payments upon the principal of only in as few cases as they could; that we desired to keep the mortgages being paid down.

Mr. PECORA. With the experience that has come to you as the executive head of this bank would you say as a banker that these mortgages are a good security for commercial banks to carry against loans?

Mr. MILLS. For a commercial bank, no; but they were made, by and large, mostly by savings banks. Most of these banks went into this merger—not all of them, but the biggest one, the Peoples Wayne, that went in, was primarily a savings bank, and, Mr. Pecora, irrespective of what the First National Bank may be called, two thirds of its deposits, very roughly, were time deposits. It was more of a savings bank than a commercial bank.

Mr. PECORA. Were they entered as time deposits?

Mr. MILLS. Well, as far as I know they were. I know they told me they kept reserves as time deposits, and so on. I think they showed that way in the statement.

Mr. PECORA. Further along in your prepared statement you say as follows:

> To meet this legacy of grief which I inherited upon coming into the bank, policies were instituted to cut down all the loans predicated upon Detroit Bankers Co. stock, liquidating the net indebtedness above mentioned of the Detroit Bankers Co., and to reduce its operation and expenses, to solve the problems arising by virtue of partial ownership in the 10 banks throughout the State, to increase the liquidity of the bank, and to increase its strength and liquidate its loans, and, finally, to organize its personnel and to coordinate its staff.

I think you probably were very discriminating in the use of the language you employed in referring to these things as a "legacy of grief", and I assume that you employed that language advisedly.

Mr. MILLS. I happened to use it, as I do quite frequently. That was all. It was my own expression.

Mr. PECORA. It is a pet phrase of yours, you mean?

Mr. MILLS. No; I just happened to have used it, and when I dictated this thing, why, the words came to my lips and I used it. That was all.

Mr. PECORA. Does this represent a fair characterization of the nature of these problems?

Mr. MILLS. Oh, yes. The statement, to the best of my knowledge and belief, is absolutely correct. Yes, sir.

Mr. PECORA. Further along in this statement of yours you say as follows:

> How well this task was in progress may probably be best pointed out by the statement that in the last 1½ calendar years of the existence of the bank—that is, June 30, 1931, to December 31, 1932—it lost about $143,000,000 of deposits. In the last calendar year alone it lost $60,000,000 of deposits, paid over $27,000,000 of bills payable that existed on the 1st day of January 1932, charged off $15,000,000 of bad or doubtful loans, or a total liquidation in the last calendar year of over $102,000,000, and maintained not far from the same percentage of liquidity at the end of the year which it had at the beginning.

Is it fair to infer from that recital of facts that there had been what could be called a "dry run" on the bank in the middle of 1931 down to the end of 1932?

Mr. MILLS. I don't know as you would call it a dry or a salient run. We never recognized it as such. It was seepage of deposits. We ascribed it largely to people leaving Detroit, to people placing their funds in banks that were more liquid. It may have been as you described it. We never recognized it as such.

Mr. PECORA. You were conscious of the fact of these withdrawals within this year and a half period of time, weren't you?

Mr. MILLS. Oh, yes.

Mr. PECORA. You were conscious of it currently?

Mr. MILLS. Yes.

Mr. PECORA. Did that suggest to you as one of the officers of the bank, as its second officer and later on as its chief officer, the advisability of a conservation of its resources to the fullest possible extent?

Mr. MILLS. We always tried to conserve our resources, whether we were losing deposits or otherwise. At least while I was there.

Mr. PECORA. Now, during all that year 1931 what dividends were paid by the bank?

Mr. MILLS. I do not know what the First National Bank paid, because I was not a director.

Mr. PECORA. How about the Peoples Wayne County Bank?

Mr. MILLS. I have those figures here some place. If you will bear with me a few moments I think I can dig them out for you.

Mr. PECORA. Yes.

(Mr. Mills at this point referred to his papers.)

Mr. PECORA. Now, will you proceed with your answer?

Mr. MILLS. I am informed that in 1931—I was informed this by the bank—the Peoples Wayne County Bank paid $3,780,000 in dividends.

Mr. PECORA. Three million——

Mr. MILLS. Seven hundred and eighty thousand. That is the figure that I have been informed. That is the Peoples Wayne.

Mr. PECORA. Yes.

Mr. MILLS. That is the only one I knew anything about.

Mr. PECORA. Yes. The figure as we have it, and as it has been referred to heretofore in the record, is $3,877,845.

Mr. MILLS. Well, there is not a great difference. I don't know where the difference comes, but it is not a tremendous difference. The figure as given to me in Detroit by the bank was $3,785,000. It is not a great difference.

Mr. PECORA. Now, referring to that statement in which you said that in the last calendar year alone—that is, the year 1932—the bank lost $60,000,000 of deposits, paid over $27,000,000 of bills payable that existed on the 1st day of January, 1932, and so forth, what were those bills payable to which you allude?

Mr. MILLS. At the time of the institution of the First Wayne National Bank, which later became the First National, published statement published in the press showed bills payable of $27,960,000. That was at the time of the consolidation.

Mr. PECORA. Do you know how those bills payable were paid off?

Mr. MILLS. Paid off by liquidation of assets, using of spare funds of the bank, by liquidation of assets.

Mr. PECORA. Are you familiar with the fact that on June 29, 1932, the First National Bank, Detroit, reflected on its statement of condition a total of borrowed money amounting to $19,000,000?

Mr. MILLS. June 29, 1932?

Mr. PECORA. Yes, sir.

Mr. MILLS. I do not recall the figure; no, sir. I should be very much surprised at that, Mr. Pecora, because in general those bills payable, according to my recollection, had been going down.

Senator COUZENS. That does show them going down from 29 million January 1, 1932, to 19 million in June 1932, doesn't it?

Mr. MILLS. Yes, they do; but I thought they went more than that, Senator.

Mr. PECORA. Now, Mr. Mills, let me show you what purports to be a photostatic reproduction of the daily statement of condition of the First Wayne National Bank of Detroit under date of June 29, 1932. Doesn't it show total borrowed money $19,000,000 on that date [handing document to Mr. Mills]?

Mr. MILLS. Yes, sir; and the day before it shows $10,000,000 of borrowed money. It shows this—may I read the whole line, Mr. Pecora?

Mr. PECORA. Yes.

Mr. MILLS. It showed borrowed money January 15, 1932, $26,850,000.

Mr. PECORA. Yes; is that January 1?

Mr. MILLS. January 15, 1932.

Mr. PECORA. Yes.

Mr. MILLS. June 28, 1932, $10,000,000. June 29, 1932, $19,000,000, an increase of $9,000,000.

Mr. PECORA. Well, now, I show you what purports to be a photostatic reproduction of the statement of condition as of June 30, 1932, of the First Wayne National Bank of Detroit. Will you look at it and tell me what it shows with regard to borrowings and borrowed moneys on June 30, 1932, the day after the 19 million dollars borrowed money as shown by the statement from which you just read?

Mr. MILLS. Shows no borrowed money on that day. It shows the nineteen is the day before.

Mr. PECORA. What is that?

Mr. MILLS. It shows the nineteen is the day before.

Mr. PECORA. Shows nineteen the day before, but no borrowed money at all on June 30?

Mr. MILLS. Correct.

Mr. PECORA. How was that taken care of?

Mr. MILLS. By using funds on deposit with banks and bankers. I say that is the only way that I know that it could have been done. It may have been done by liquidation, I don't know.

Mr. PECORA. You were the——

Mr. MILLS (interposing). I was the head of the bank.

Mr. PECORA. You were executive head of the bank?

Mr. MILLS. Oh, yes.

Mr. PECORA. And you don't know how it was done, how an item of 19 million dollars of bills payable was taken care of?

Mr. MILLS. I say it was done by either of two ways, either by sale of securities or by using funds on deposit.

Mr. PECORA. Well, there is quite a difference between the two things.

Mr. MILLS. I think it may have been done by the use of funds on deposit. It may have been done by other ways, but I think it was done by using funds on deposit.

Mr. PECORA. Now I show you a daily statement of condition as of July 1, 1932, at the same bank. What was the total borrowed money shown to be due and owing by the bank on July 1, 1932?

Mr. MILLS. $20,650,000.

Mr. PECORA. Here is what occurs to me as perhaps a singular situation. I may be wrong, so I am going to ask you to enlighten

us about it. According to these photostatic reproductions of these daily statements of condition of the bank on June 29, 1932, the bank had bills payable of $19,000,000.

Mr. MILLS. Yes.

Mr. PECORA. On June 30, 1932, the following day, it showed that it had no bills payable at all.

Mr. MILLS. Yes.

Mr. PECORA. And on July 1, 1932, the following day after that, it showed bills payable of $20,650,000.

Mr. MILLS. Yes.

Mr. PECORA. What were the transactions that the bank effected which enabled it to make those showings on those three dates, respectively?

Mr. MILLS. I think unquestionably what happened was this: The bank borrowed on the 29th day of June, borrowed more than its actual needs. It borrowed some—whatever the sum is shown there.

Mr. PECORA. Borrowed some 20 million dollars?

Mr. MILLS. It borrowed $20,000,000. How much of it it needed, I don't know, but it borrowed $20,000,000. It used $20,000,000 the following day. It used that $20,000,000 and other funds on deposit, possibly—say there was some small amount of securities, although I think that would be very incidental—to pay its bills payable.

Mr. PECORA. And then bills payable in the sum of $20,650,000 appear on its daily statement on the following day, namely, July 1.

Mr. MILLS. Yes. They borrowed it the following day; yes, sir.

Senator COUZENS. In the meantime a public statement had been made as of June 30, 1932?

Mr. MILLS. In the meantime I would apprehend that there was a call on that date. But I would also like to call your attention to this Senator: That our totals—I have heard a great deal about totals in the newspapers recently—were off $20,000,00 on each side. So we were not padding any statements. They were off $20,000,000.

Mr. PECORA. No; but, as Senator Couzens has pointed out, on June 30, 1932, the bank published a statement of its condition.

Mr. MILLS. Surely.

Mr. PECORA. And that published statement showed no bills payable at all.

Mr. MILLS. Correct, which was the fact.

Mr. PECORA. Which was the fact. The day before it had bills payable of $19,000,000.

Mr. MILLS. Yes.

Mr. PECORA. And the day after the publication of that statement of condition it had bills payable of $20,650,000.

Mr. MILLS. That is correct, and we used our own money to pay the bills payable, and our totals were down that much.

Mr. PECORA. Now, you said you borrowed the moneys from other banks.

Mr. MILLS. At that time I think we were borrowing in New York. We did not use the Federal Reserve bank. The rate was cheaper in New York.

Mr. PECORA. You borrowed those moneys in order to take care of the bills payable of $19,000,000, which otherwise would have been

shown on its published statement of condition as of June 30, 1932—isn't that so?

Mr. MILLS. I don't see by borrowing the money that it would not have shown. We borrowed——

Mr. PECORA. Well, the fact is that in the published statement of condition as of June 30, 1932, you did not show any bills payable whatsoever.

Mr. MILLS. Correct.

Mr. PECORA. If you had published a statement of the condition of the bank of the day before, a correct statement would have shown bills payable amounting to $19,000,000?

Mr. MILLS. If the Comptroller had called on that date it would have been so shown; yes, sir.

Mr. PECORA. Yes. And if you had published a statement of the condition on July 1, 1932, it would have shown bills payable of $20,650,000?

Mr. MILLS. If the Comptroller had called for it on that day it would have; yes, sir.

Mr. PECORA. But the Comptroller had called it for June 30?

Mr. MILLS. He did. He had not then. He did later.

Mr. PECORA. It was anticipated then that he would?

Mr. MILLS. Well, it was probably thought that he would; yes.

Mr. PECORA. That is one of the dates usually fixed for a call for a statement?

Mr. MILLS. Yes.

Mr. PECORA. And that was known to you, wasn't it?

Mr. MILLS. I knew that there was frequently a call on that date. Everyone knew that there was frequently a call on that date. I want to call your attention to the fact that we used our own moneys on deposit with depositaries for that purpose.

Senator COUZENS. Why did you have to borrow the money the next day then if you used your own money?

Mr. MILLS. Probably to meet some demands of withdrawals. I don't know, Senator. Probably to meet some withdrawal demands.

Senator COUZENS. You don't want this committee to really believe, Mr. Mills, that it was just an element of luck?

Mr. MILLS. Oh, no, Senator. I am not trying to.

Senator COUZENS. That on June 30 you showed no bills payable?

Mr. MILLS. No; I am not trying to do that at all.

Senator COUZENS. That is what I thought you were trying to do.

Mr. MILLS. I am glad that you told me that. I would like to make myself perfectly clear. We anticipated a call——

Mr. PECORA. For June 30?

Mr. MILLS. For June 30. We did not know it. We used our own money to pay our bills payable with.

Senator COUZENS. And yet you do not tell us how you came to borrow more than you paid out the day before.

Mr. MILLS. I said we probably needed it in our business.

Senator COUZENS. Well, you say "probably." What did you need it for?

Mr. MILLS. We needed it in our business to carry on the business.

Senator COUZENS. Why didn't you use it on the 30th of June, then?

Mr. MILLS. I suppose because we did not wish to show any bills payable.

Senator COUZENS. That is what we wanted to get you to state.

Mr. MILLS. We did not want to show any bills payable, and we used our own money for that purpose.

Mr. PECORA. Do you recognize that as a species of window-dressing, to use a rather popular term?

Mr. MILLS. I would not; because we did not receive any assistance from any affiliates. We did not ask for any special deposits over that period. We used our own funds.

Mr. PECORA. Are you sure you used your own funds?

Mr. MILLS. As far as I know, we did; yes. As far as I know, we used our own funds; every reason to believe it.

Senator COUZENS. You had no special deposits on June 30, 1932?

Mr. MILLS. It was against our policy, and I so instructed the men in the bank that we did not wish to get special deposits.

Senator COUZENS. And you did not get any special deposits prior to June 30, 1932?

Mr. MILLS. So far as my knowledge goes; no.

Mr. PECORA. Did you create a deficiency in the legal reserve of the bank with the Federal Reserve bank?

Mr. MILLS. No, sir.

Mr. PECORA. Are you sure you did not?

Mr. MILLS. I asked that question—oh, in reading about this testimony in the newspapers—and they tell me that under the rules of the Federal Reserve no deficiency was in the reserves. They are computed not on daily balances.

Mr. PECORA. When did you ask that question of anyone?

Mr. MILLS. I asked that question when I was reading about the Guardian investigation here.

Mr. PECORA. What prompted you to ask that question in regard to these transactions of June 29, June 30, and July 1, 1932, in view of the fact that there had not been a word of evidence introduced before this committee up to the present time with regard to these transactions?

Mr. MILLS. I wanted to fortify myself for any answers that I could conceive of that I might be asked.

Mr. PECORA. Then, you had some consciousness a short time after reading the testimony before this committee with regard to window-dressing practices in connection with the Guardian Detroit Union Group?

Mr. MILLS. Oh, I expected I would be asked about window-dressing; yes.

Mr. PECORA. And, conscious of that, or anticipating that, you thought of these particular transactions?

Mr. MILLS. No; I did not.

Mr. PECORA. Of June 29, June 30, and July 1, 1932?

Mr. MILLS. No; I didn't know of that, Mr. Pecora. I didn't know of that. I was trying to fortify myself about reserves; trying to fortify myself as to whether there were any other deposits that went to the bank. I didn't know that this condition—I didn't recall the condition existed in June.

Senator COUZENS. Why did you ask what the condition of your balance was in the Federal Reserve as of June 30, 1932?

Mr. MILLS. I didn't ask as of that date. I asked what the general requirements were, Senator.

Senator COUZENS. And you found that on June 30, 1932, there was no deficiency in your Federal Reserve account?

Mr. MILLS. I didn't know that until a few minutes ago. And I still don't believe there was a deficiency in the account.

Mr. PECORA. Now, Mr. Mills, I want to show you what purport to be photostatis reproductions of certain statements of records of the bank.

Mr. MILLS. Yes, sir.

Mr. PECORA. Will you look at them and tell us if they do not refresh your recollection as to whether or not a deficiency was created in the legal reserve of your bank at the Federal Reserve bank on June 30, 1932, in the sum of $11,581,000?

Mr. MILLS. I have never seen these statements before.

Mr. PECORA. Well, look at them now.

Mr. MILLS. I probably would not understand them. I will certainly look at them. [After looking at document.] This shows that this is dated July 1, apparently shows—may I speak to persons who know——

Mr. PECORA (interposing). We found them among the records of the bank, Mr. Mills. I don't know who prepared it.

Mr. MILLS. I don't recognize the document. It shows—it is self-explanatory—almost $21,000,000 representing, apparently, reserves of July 1.

Mr. PECORA. The required reserves. Take the first sheet there of that photographic reproduction that you have. What does it show?

Mr. MILLS. It shows date, demand deposits, apparently in thousands, and time deposits. Then comes the word "required."

Mr. PECORA. Well, give the figures under each caption.

Mr. MILLS. All right.

Mr. PECORA. For each of the three dates.

Mr. MILLS. Date July 29, demand——

Mr. PECORA. June 29, isn't it?

Mr. MILLS. June 29—beg your pardon. Demand, 118,439. I presume that is millions.

Mr. PECORA. That is millions; yes.

Mr. MILLS. Time, 289,741. Required, 20,536.

Mr. PECORA. That is the required reserve, 20,536,000?

Mr. MILLS. Yes. "In Fed. 27,365. Over 6,289." That would be an overreserve.

Mr. PECORA. That is, on June 29, 1932, the bank was required to maintain a reserve with the Federal Reserve bank of twenty-odd million dollars, the figure that you gave, and it actually had some $27,000,000 in reserves?

Mr. MILLS. No. According to my information, reserves are not figured on a daily basis, so it was not required to have that. It was figured, I was informed, on a semiweekly basis. If it had been figured on a daily basis, this would be correct.

Senator COUZENS. You told us awhile ago that it was not figured on an average. That is what your testimony shows.

Mr. MILLS. If I did, Senator, I will state this, or I have been informed, that reserves are figured on average balances, on semi-weekly averages, that that is the requirement by the Federal Reserve bank. I have been so informed. Do you wish me to continue reading that?

Mr. PECORA. Yes.

Mr. MILLS (reading):

On June 30: Demand, 117,517; time, 289,176; required, 20,427; in Fed. 8,846; over, blank; short, 11,581.

Mr. PECORA. That means that on that date, June 30, 1932, there was a shortage or deficiency in the reserve of 11 million-odd.

Mr. MILLS. As you phrase your question, and dropping the word "required", I agree with you; yes, sir.

Mr. PECORA. The word "required" is on that statement, is it not?

Mr. MILLS. It says "required"; yes. It says so.

Mr. PECORA. Yes. That is not our exhibit. That is from the bank's records.

Mr. MILLS. But I am informed the law is otherwise, and the regulations of the Federal Reserve bank. [Continuing reading:]

Date, July 1; demand, 132,399; time, 288,560; required, 21,897; in Fed., 26,661; over, 4,769.

Senator COUZENS. So, in effect, on the 29th you had an excess in your reserve account in the Feedral Reserve bank of some 6 million.

Mr. MILLS. Close to 7 million; yes.

Senator COUZENS. And on the 30th, the day you showed no bills payable, you were overdrawn in your reserve to the extent of 11 millions. You were under your reserve to the extent of 11 millions.

Mr. PECORA. They had a deficiency.

Mr. MILLS. We had a deficiency if they were figured on that day's basis.

Mr. PECORA. If they were not figured on the daily basis, how in the world was that sort of a statement in the records of the bank? Was it just an idle specimen of penmanship?

Mr. MILLS. No. It is perfectly obvious that they keep their records in the bank—Mr. Russ—on a day-to-day basis.

Mr. PECORA. Do you recognize the handwriting?

Mr. MILLS. No; I do not. But he was in charge of reserves.

Senator COUZENS. The record shows, regardless of the figures and who wrote them, that for the purpose of the June 30 statement you drew this money out of the Federal Reserve bank.

Mr. MILLS. Yes.

Senator COUZENS. To pay up your bills payable, so as to show no bills payable; and by so doing you were under your reserve some $11,000,000.

Mr. MILLS. Not under our required reserves.

Senator COUZENS. The bank statement shows you were short that much.

Mr. MILLS. Well, that is——

Senator COUZENS. We will call it short for the purpose of harmonizing our statements.

Mr. PECORA. Does it now seem to you that on June 30, 1932, the bank wanted to show no bills payable as of that date, and in order

to do so, in the statement which it made in response to the Comptroller's call and in the statement which it published as of that date, created a deficiency in its legal reserve at the Federal Reserve bank amounting to over $11,000,000?

Mr. MILLS. Not in its legal reserve; no, sir. Not in its legal reserves. One thing I always cautioned Mr. Russ was never to drop below his legal reserves. I know Mr. Russ well enough to be confident that he never did.

Mr. PECORA. What do you suppose, then, this memorandum or record refers to?

Mr. MILLS. I did not make it. I do not know. That shows on the daily basis.

Mr. PECORA. Yes.

Mr. MILLS. The law and the Federal Reserve regulations, I have been informed, do not require it on the daily basis. They are figured semiweekly.

Senator COUZENS. Then, on July——

Mr. MILLS. May I finish?

Senator COUZENS. Certainly.

Mr. MILLS. We were using our power and our ability and the funds we had to pay bills payable. We had the power to do it and we used it, and our totals were down by some $20,000,000. If we had not done it we might have been accused of padding, showing some $20,000,000 more assets and 20 million more liabilities.

Mr. PECORA. Are you familiar with the provisions of the Federal Reserve Act?

Mr. MILLS. On reserves?

Mr. PECORA. With regard to member banks maintaining reserves there?

Mr. MILLS. No; I am not.

Senator COUZENS. You are one of the largest members of the Federal Reserve System, and you are not familiar with that?

Mr. MILLS. I know the general terms, Senator; yes.

Mr. PECORA. Did you ever read the regulation or provision of law itself relating to the maintenance of these reserves?

Mr. MILLS. Oh, yes. I have read the Federal Reserve Act time and again.

Mr. PECORA. How about the regulations?

Mr. MILLS. I do not believe I ever read the regulations. I have read the law time and again.

Mr. PECORA. Your bank declared and paid a dividend on June 30, 1932, did it not?

Mr. MILLS. The First National Bank declared a dividend.

Mr. PECORA. Of $500,000?

Mr. MILLS. Prior to that date.

Mr. PECORA. And paid it as of June 30, 1932?

Mr. MILLS. I believe that was the date.

Mr. PECORA. The amount of that dividend was $500,000, was it not?

Mr. MILLS. I think it was $2 a share.

Mr. PECORA. That made $500,000?

Mr. MILLS. Correct.

Mr. PECORA. Are you familiar with this provision of the National Banking Act, known as "section 410, title XII", which reads as follows [reading]:

The required balance carried by a member bank with the Federal Reserve bank may, under the regulations and subject to such penalties as may be prescribed by the Federal Reserve Board, be checked against and withdrawn by such member bank for the purpose of meeting existing liabilities, provided, however, that no bank shall at any time make new loans or shall pay any dividends, unless and until the total balance required by law is fully restored.

Mr. MILLS. I recall having read some such provision. Any dividend was declared long before that date. It would have been declared in June—early in June, probably.

Mr. PECORA. The reference in the statement here is not to the declaration of dividends but to the payment of dividends. This dividend of $500,000 was paid on June 30, 1932, in pursuance of a declaration made earlier that month, was it not?

Mr. MILLS. I presume the date was June 30. I would have to take your word for it.

Mr. PECORA. I do not want you to take my word for it. You were the chief executive officer of the bank at that time. I should think you would know the date of the payment of dividends of the bank.

Mr. MILLS. Dividends were paid quarterly. They were paid either the last day of the year or the 1st day of January.

Mr. PECORA. Don't you know which day it was?

Mr. MILLS. No; I do not.

Mr. PECORA. If it were declared quarterly, that would make it payable on either the 30th of June or the 1st of July.

Mr. MILLS. Yes.

Mr. PECORA. Which of the dates was used?

Mr. MILLS. I do not know. I am inclined—yes; I do know—payable on the 1st day of January. I will tell you how I know that, because my income tax—they have checked my income tax—they threw that into the—now, I am not so sure. I do not know. I do not know which date it was, whether it was the last day or the first of the month.

Mr. PECORA. I will tell you what I would like to have you do, Mr. Mills.

Mr. MILLS. Yes, sir.

Mr. PECORA. Not only as the chief executive officer of the bank, but as an attorney, will you refer me—if you cannot do it now, do it at any subsequent time—to any statutory provision or to any provision found in any regulation or rule of the Federal Reserve bank which did not require the maintenance of reserves against daily balances?

Mr. MILLS. I will ask the people who told me about this, and bring you what they tell me; bring you the reference.

Mr. PECORA. While you are on the stand, and at this time, I will ask you to look at the National Banking Act, a copy of which I have before me, and to read section 408 thereof, entitled "Balance Which Member Banks Must Keep in Reserve Banks", and see if that enlightens you.

Mr. MILLS. Do you wish me to read that aloud?

Mr. PECORA. No; just read it to yourself.

Mr. MILLS (examining document). This reads, as to our particular situation, being in a reserve city, that the bank shall hold and maintain with the Federal Reserve bank of its district an actual net balance equal to not less than 10 percent of the aggregate amount of its demand deposits and 3 percent of its time deposits. That is the portion as it refers to us.

Mr. PECORA. That does not say on a semiweekly average, does it?

Mr. MILLS. I was informed by Mr. Sweeny and Mr. Russ that that was found in the regulations of the Federal Reserve Board as to reserves, or in some such similar document.

Mr. PECORA. I would like to have you call our attention to any such provision.

Mr. MILLS. I will attempt to secure it for you.

Mr. PECORA. You know, from your experiences as a bank officer, as well, probably, as an attorney, that banks are subjected to penalties by way of fines by the Federal Reserve bank for creating deficiencies in their reserve funds at the Federal Reserve bank.

Mr. MILLS. Yes.

Mr. PECORA. Was your bank ever fined for any such deficiency?

Mr. MILLS. Not to my knowledge.

Mr. PECORA. Would you know if it were the fact that it had been fined?

Mr. MILLS. If the fine amounted to anything of real consequence, I would have known of it while I was the head of the bank. If it was a small fine, I would not have.

Mr. PECORA. You might check that up, too, between now and your next appearance on the stand.

Mr. MILLS. I do not know how I could find that, because I have no access to the records from the receiver.

Mr. PECORA. Perhaps some of your former associates in the bank who would know of that would be able to tell you. Perhaps Mr. Sweeny can tell you.

Mr. MILLS. It is pretty hard to see him.

Senator COUZENS. Perhaps the Federal Reserve in Detroit can tell you.

Mr. MILLS. Could not the receiver tell me?

Mr. PECORA. If he is willing to, I have no objection to his doing it. I do not care where you get your information from, if it is authentic.

Mr. MILLS. It would be easier to find out from him. He has the record.

Mr. PECORA. And at the same time you might assure yourself of the date of payment of this dividend for the second quarter of 1932.

Mr. MILLS. All right.

Mr. PECORA. Mr. Mills, while I am having certain records looked up, I want to ask you about this statement, taken from your prepared statement read into the record this morning. You will find it at page 6 thereof. [Reading:]

The First National Bank would have opened on Tuesday after Lincoln's birthday (that refers to the year 1933) and conducted its business had it not been for the attitude of the Ford Motor Co., which then stated that if the Guardian were not permitted to open the Ford Motor Co. would withdraw its own and its controlled deposits, amounting to approximately 20 million dollars, from the First National Bank the first thing Tuesday morning. For some reason, as has been testified by Mr. Edsel Ford, the Ford Motor interests

reached the conclusion that unless the Guardian were permitted to open they would withdraw their deposits from the First National Bank. These institutions were in no way related. Why Mr. Ford should state he would withdraw an enormous deposit from the First National Bank unless another and entirely separate and competing institution were saved, is to me unknown.

Now, did it ever occur to you to ask anyone connected with the Ford Motor Co. what reason they had for announcing that they would withdraw their deposit of approximately 20 million from your bank if the Guardian bank closed?

Mr. MILLS. Yes; it did.

Mr. PECORA. Did you ask them? Whom did you ask about it?

Mr. MILLS. I talked to Mr. Henry Ford.

Mr. PECORA. Did he give you his reason for that attitude?

Mr. MILLS. Mr Ford made substantially this statement to me.

Mr. PECORA. What statement?

Mr. MILLS. Ford stated to me—this was on the Michigan holiday, on Monday evening of the Michigan holiday. That would be on the——

Senator COUZENS. The 13th.

Mr. MILLS. The 13th day of February—that unless the Guardian were permitted to open the following day he would come down and take his money, every cent of his funds, from us and from any other Detroit bank that was open.

The CHAIRMAN. And what?

Mr. MILLS. And any other Detroit bank that was open.

Mr. PECORA. Did he give you his reason for so doing?

Mr. MILLS. I said, "Why is that, Mr. Ford?" He said, "I think it is up to the Government to save these institutions by making them loans. They saved the Dawes bank."

Mr. PECORA. Is that the reason he gave?

Mr. MILLS. That is substantially the reason. That was substantially the whole conversation.

Mr. PECORA. Then you did know the reason, when you prepared this statement which you read into the record, and said:

Why Mr. Ford should state he would withdraw an enormous deposit from the First National Bank unless another and entirely separate and competing institution were saved is to me unknown.

Mr. MILLS. Mr. Ford may have had other reasons in addition which he did not express to me.

Mr. PECORA. You are assuming, now, that he had other reasons.

Mr. MILLS. Assuming he may have had them.

Mr. PECORA. But you did specifically go to him to find out what his reason for such withdrawal was, and he gave you the reason you have repeated just now.

Mr. MILLS. I asked him if he would play ball, told him what the situation was, told him we were applying for a loan from the R.F.C. for the first time and we hoped to secure one. Mr. Ford made the remark that I have testified to.

Mr. PECORA. Mr. Mills, I show you what purports to be a photostatic reproduction of a letter addressed by you under date of November 14, 1931, to Mr. Henry M. Robinson, care of Carlton Hotel, Washington, D.C. Will you look at it and tell me if you recognize it to be a true and correct copy of such a letter addressed by you

to Mr. Robinson on or about that date? [Handing a paper to Mr. Mills.]

Senator COUZENS. Who is Mr. Robinson?

Mr. MILLS. Mr. Robinson is a banker of California. [After examining paper.] Yes; I wrote—I believe I wrote the original of that letter, without any question.

Mr. PECORA. I offer it in evidence.

(Copy of letter, Nov. 14, 1931, Mills to Henry M. Robinson, was received in evidence, marked "Committee Exhibit No. 135, Feb. 2, 1934", and the same was subsequently read into the record by Mr. Pecora.)

Mr. PECORA. The letter received in evidence as Committee's Exhibit No. 135 of this date reads as follows [reading]:

NOVEMBER 14, 1931.

MR. HENRY M. ROBINSON,
Care of Carlton Hotel, Washington, D.C.

DEAR MR. ROBINSON: I cannot begin to tell you how cheered I felt upon our telephone talk yesterday afternoon. I have spoken to the head of every bank and trust company of significance in Detroit and they have agreed to give the heartiest public approval to the President's plan. Many other of our local prominent citizens are likewise doing so.

The attitude of all of our newspapers has been perfectly splendid. The Detroit Free Press carried the announcement with a headline completely across the first page, and I happen to know that they will follow it up with favorable editorial comment. The other papers have given it prominent publicity on the front pages, and at least one of them has indicated to me that they will follow it up editorially.

At first I was somewhat disappointed that dispatches from Washington were not received until so late last evening, but I think it is better now than had they come in earlier, because I am told that our papers expect to carry special articles tomorrow (Sunday) upon the plan. So there will be, in effect, a double dose of news publicity.

The other organizations here are also planning to get behind the plan and do what they can with their Representatives and Senators toward an early enactment of the plan into law. Frankly I shudder when I consider our senior Senator. I have not the remotest idea—possibly he has not—what his reaction will be. I wish he was a more normal and not such an erratic individual.

I telephoned your message to Emory Clark. He was delighted to hear it and asked me, if I happened to see or write you, to give you his very best remembrances.

I cannot close this letter without telling you how very much I enjoyed our meeting, and that I feel the country, in addition to having the President to thank for this present constructive move, should also have you to thank. If you are ever in this neighborhood, I will not forgive you if you do not let me know, and when, as and if, as a lawyer would say, I happen to be in Washington, I am going to at least inflict myself upon you for a few moments.

With heartiest congratulations and the very best of good wishes, I remain,

Yours Faithfully,

——— ———.

Senator COUZENS. What was the plan you were talking about in that letter? I am curious to know the plan that was to be announced.

Mr. MILLS. As I recall it, Senator, Mr. Hoover had already announced, or was about to announce, a plan for the Federal Home Loan Bank, which he advocated.

Senator COUZENS. This was after the R.F.C. had been organized, was it?

Mr. MILLS. No.

Mr. PECORA. This was dated in November 1931.

Mr. MILLS. Several months before the R.F.C. He stated that in his message to Congress, when Congress convened in December—Mr. Hoover made the public statement that when Congress convened in December he would recommend to the Congress the enactment of a Federal Home Loan bank bill. Mr. Robinson had informed me of that.

The CHAIRMAN. That was put in operation about a year and a half afterwards. It started about a year and a half afterwards.

Mr. PECORA. No; this letter was dated November 14, 1931.

Senator COUZENS. The Federal Home Loan bank.

The CHAIRMAN. The Federal Home Loan bank was started about a year and a half afterwards.

The committee will now adjourn until 10 o'clock Tuesday morning.

(Whereupon, at 4 p.m., Friday, Feb. 2, 1934, an adjournment was taken until Tuesday, Feb. 6, 1934, at 10 a.m.)

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